

Consolidated 1992 Order

This document consolidates the Firefighters' Pension Scheme 1992 Order up to and including the Firefighters' Pension Scheme (Amendment) (England) Order 2008.

This is not a substitute for the statutory instruments published by the Stationery Office.

(FEBRUARY 2008)

1992 No. 129

FIRE SERVICES

SUPERANNUATION

The Firemen's Pension Scheme Order 1992

<i>Made</i>	- - - -	<i>28th January 1992</i>
<i>Laid before Parliament</i>		<i>7th February 1992</i>
<i>Coming into operation</i>	-	<i>1st March 1992</i>

In exercise of the powers conferred upon me by section 26 of the Fire Services Act 1947(a) and section 8 of the Fire Services Act 1959(b) I hereby, with the approval of the Treasury(c), and after consultation with the Central Fire Brigades Advisory Council and the Scottish Central Fire Brigades Advisory Council, make the following Order:

1. This Order may be cited as the Firemen's Pension Scheme Order 1992 and shall come into force on 1st March 1992.
- 2.—(1) The Orders specified in Schedule 1 are revoked to the extent specified.
(2) The Scheme set out in Schedule 2 is brought into operation.

Home Office
9th January 1992

Kenneth Baker
One of Her Majesty's Principal Secretaries of State

We approve

Thomas Sackville
Nicholas Baker
Two of the Lords Commissioners of Her Majesty's Treasury

(a) 1947 c. 41; section 26 was amended and extended by the Fire Services Act 1951 (c.27), section 1; by the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951 (c.55), section 42; and by the Superannuation Act 1972 (c.11), sections 12 and 16.
(b) 1959 c.44.
(c) See S.I. 1981/1670.

SCHEDULE 1
REVOCATIONS

Article 2(1)

PART 1
REVOCATIONS
ORDERS NOT PREVIOUSLY REVOKED

Note: This Part is not reproduced in this version of the Order

PART 2
ORDERS PREVIOUSLY REVOKED SUBJECT TO SAVINGS

SCHEDULE 2

Article 2(2)

THE FIREFIGHTERS' [*effect of S.I. 2004/2306*] PENSION SCHEME 1992

PART A
GENERAL PROVISIONS AND RETIREMENT

Citation and commencement

A1 This Scheme (which is in force from 1st March 1992) may be cited as the Firefighters' [*effect of S.I. 2004/2306*] Pension Scheme 1992.

Interpretation

A2.—(1) Part 1 of Schedule 1 to this Scheme contains a glossary of expressions; and in this Scheme, unless the context otherwise requires, any expression for which there is an entry in the first column of that Schedule has the meaning given against it in the second column or is to be construed in accordance with directions given against it in that column.

(2) Part 2 of Schedule 1 has effect for construing references in this Scheme to certain expressions related to the National Insurance and Social Security Acts.

(3) In this Scheme, unless the context otherwise requires, any reference to a rule, Part or Schedule identified by a letter or number or both (“an indicator”) is to be construed as a reference to the rule, Part or Schedule, as the case may be, identified by that indicator in this Scheme, and any reference to a numbered paragraph in a rule of or a Schedule to this Scheme is to be construed as a reference to the paragraph bearing that number in that rule or, as the case may be, that Schedule.

(4) Where this Scheme requires anything to be done within a specified period after or from a specified day or event, the period begins immediately after the specified day or, as the case may be, the day on which the specified event occurs.

Exclusive application to regular firefighters

A3.—(1) Subject to paragraphs (3) to (5), this Scheme applies in relation to regular firefighters and their spouses or civil partners and dependants to the exclusion of pension provision under any enactment other than section 26 of the principal Act and the Social Security Act 1975(a).

(2) In paragraph (1) “pension provision “ means any provision for the payment of a pension, allowance or gratuity, on cessation of employment or on death, in respect of employment as a regular firefighter.

(3) A person who is not an employee of a fire and rescue authority but whose employment is, under rule A4 or A5, treated for the purposes of this Scheme as employment as a regular firefighter is not a regular firefighter for the purposes of this rule.

(4) Nothing in this rule prevents provision being made by this Scheme in respect of pension credit members.

(5) This Scheme ceases to apply in relation to—

- (a) a person who takes up employment with a fire and rescue authority on or after 6th April 2006,
- (b) a person who, having made an election under rule G3(1) not to pay pension contributions, cancels that election on or after 6th April 2006, and
- (c) the spouse, civil partner, eligible child or other dependant of such a person,

on the day on which a scheme, other than the Compensation Scheme, is brought into operation under section 34 of the Fire and Rescue Services Act 2004, as regards England.

Application to temporary employment connected with fire services

A4.—(1) This rule applies in the case of a person who has ceased to perform duties as a regular firefighter and has entered relevant employment.

(2) For the purposes of this rule relevant employment is temporary employment, on duties connected with the provision of fire and rescue services—

- (a) as an instructor at the central training institution or any training centre maintained by the Secretary of State, or
- (b) as an inspector, assistant inspector or other officer appointed under section 24 of the principal Act, or
- (c) in pursuance of arrangements made by the Secretary of State in connection with the training in fire-fighting of members of the armed forces of the Crown, or
- (d) in pursuance of arrangements made by the Secretary of State, or made after 31st March 1968 but before 15th November 1970 by the Minister of Overseas Development, in connection with the training and organisation of fire-fighting forces in any country or territory outside the United Kingdom.

(3) Where this rule applies the person’s relevant employment shall be treated for the purposes of this Scheme as employment by a fire and rescue authority and this Scheme applies in relation to the relevant employment as if—

- (a) he were, and his duties were duties as, a regular firefighter,
- (b) his pay and role were the same as they would have been had he not ceased to perform duties as a regular firefighter or, where section 10 of the Fire Services Act 1959(b) applies, the same as his pay and role as an employee of a fire and rescue authority,
- (c) any reference to employment with a fire and rescue authority were a reference to the relevant employment,
- (d) rules A14, A15 and L2 were omitted, and
- (e) any reference to a fire and rescue authority were a reference to the Secretary of State.

(a) 1975 c.44.
(b) 1959 c.44.

Application to permanent employment as instructor

A5.—(1) This rule applies in the case of a person who has ceased to perform duties as a regular firefighter and has entered relevant employment.

(2) For the purposes of this rule relevant employment is permanent employment, on duties connected with the provision of fire and rescue services, as an instructor at the central training institution or any training centre maintained by the Secretary of State.

(3) Where this rule applies the person's relevant employment shall be treated for the purposes of this Scheme as employment by a fire and rescue authority and this Scheme applies in relation to the relevant employment as if—

- (a) he were, and his duties were duties as, a regular firefighter,
.....[*effect of S.I. 2005/2980*]
- (c) any reference to a fire and rescue authority were a reference to the Secretary of State, and
- (d) rules A14, A15 and L2 were omitted.

No application to auxiliary firefighters

A6. This Scheme does not apply in relation to an employee of a fire and rescue authority whose employment is restricted, except in a war emergency, to such duties as are desirable for training.

Reckoning of service for purposes of awards

A7.—(1) Subject to paragraph (3), for the purpose of calculating an award payable to or in respect of an employee of a fire and rescue authority by reference to any period in years (including a period of pensionable or other service) the period shall be reckoned as—

$$A + B / 365 \text{ years}$$

where—

A is the number of completed years in the period, and

B is the number of completed days in any remaining part of a year,

and accordingly a part of a year which includes 29th February in a leap year and comprises 365 days shall be treated as a whole year.

(2) Where, for the purpose of calculating an award payable to or in respect of a regular firefighter—

- (a) it is necessary to determine his pensionable service reckonable by reason of service or employment before or after a particular date (“the material date”), and
- (b) by virtue of the receipt by a fire and rescue authority of a transfer value, he is entitled to reckon a period of pensionable service (“the credited period”) by reason of service or employment for a period (“the previous employment period”) which includes that date,

the credited period counts as pensionable service reckonable by reason of service or employment before and after the material date in the same proportion as that between the parts of the previous employment period falling before and after the material date.

(3) In the case of a person who ceased to serve as a member of a brigade before 1st May 1975, Part III of Schedule 11 and Part VIA of Schedule 2 has effect and this rule does not apply.

(4) Subject to rule B13 and Part VIA of Schedule 2, any period of service as a part-time employee of a fire and rescue authority shall be treated as service as a whole-time employee of a fire and rescue authority when calculating a person's pensionable service

Aggregate pension contributions for purposes of awards

A8.—(1) A regular firefighter's aggregate pension contributions comprise—

- (a) all payments made by him to a fire and rescue authority that fall within paragraph (2)(aa) all payments made by him in accordance with an election under rule G2A (optional pension contributions during maternity and adoption leave),
- (b) all payments made by him in accordance with an election under rule G6 (election to purchase increased benefits), and
- (c) if paragraph (3) applies, the amount of the notional award described in paragraph (4).

(2) The payments that fall within this paragraph are payments under this Scheme or a previous Scheme that relate to a period of service which the regular firefighter is, or was immediately before electing under rule G3 not to pay pension contributions, entitled to reckon as pensionable service and have not been refunded to him, including payments made—

- (a) by way of rateable deductions from pay,
- (b) by way of such additional and further payments as were mentioned in articles 57 to 59 of the 1973 Scheme, or
- (c) in accordance with such an undertaking as is mentioned in Part I of Schedule 6.

(3) This paragraph applies where the regular firefighter is, or was immediately before electing under rule G3 not to pay pension contributions, entitled to reckon pensionable service by reason of a period of service or employment otherwise than as a regular firefighter “the previous employment period “).

(4) The notional award mentioned in paragraph (1)(c) is the award by way of return of contributions or analogous payment that would have been made to him if, at the end of the previous employment period, he had voluntarily retired in circumstances entitling him to such an award under the applicable superannuation arrangements.

...Rule A9 omitted (S.I. 2006/1810)

Disablement

A10.—(1) References in this Scheme to a person’s being permanently disabled are references to his being disabled at the time when the question arises for decision and to his disablement being at that time likely to be permanent.

(1A) In determining whether a disablement is permanent, a fire and rescue authority shall have regard to whether the disablement will continue until the person’s normal pension age.

(2) Disablement means incapacity, occasioned by infirmity of mind or body, for the performance of duty, except that in relation to a child it means incapacity, so occasioned, to earn a living.

...Paragraph (3) omitted (S.I. 2006/1810)

...Rule A11 omitted (S.I. 2006/1810)

Relevant service in the armed forces

A12. References in this Scheme to relevant service in the armed forces are references to—

- (a) service specified in Schedule 1 to the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951(**a**) (“the 1951 Act”), other than service specified in paragraph 5(b) of that Schedule,
- (b) part-time service under the National Service Act 1948(**b**), otherwise than pursuant to a training notice under that Act, and
- (c) service for the purposes of training only performed by a person mentioned in paragraph 7 of Schedule 1 to the 1951 Act for a period shorter than 7 days.

(a) 1951 c.65.
(b) 1948 c.64.

Normal pension age

A.13. The normal pension age of employees of a fire and rescue authority appointed on terms under which they are or may be required to engage in fire-fighting is 55.

Compulsory retirement of grounds of efficiency

A.14. A regular firefighter who—

- (a) has attained the age of 50, and
- (b) has, or but for an election under rule G3 or a failure to make an election under rule G2A would have, completed 25 years' pensionable service,

may be required by the authority to retire on the grounds that his retention in the fire and rescue service would not be in the interests of its efficiency.

Compulsory retirement on grounds of disablement

A15.—(1) Subject to paragraph (2), a regular firefighter may be required by the fire and rescue authority to retire on the date on which the authority determine that he ought to retire on the ground that he is permanently disabled.

(2) A retirement under this rule is void if, on an appeal against the medical opinion on which the fire and rescue authority acted in determining that he ought to retire, the medical referee decides that the appellant is not permanently disabled.

Effective date of retirement

A16. For the purposes of this Scheme an employee of a fire and rescue authority shall be taken to retire immediately after his last day of service.

PART B

PERSONAL AWARDS

Ordinary pension

B1.—(1) Subject to paragraph (2), this rule applies to a regular firefighter who retires if he then—

- (a) has attained the age of 50, and
- (b) is entitled to reckon at least 25 years' pensionable service, and
- (c) does not become entitled to an ill-health award under rule B3.

(2) This rule does not apply—

- (a) to a person whose notice of retirement states that he is retiring for the purpose of taking up employment with another fire and rescue authority, or
- (b) unless his notice of retirement was given with the permission of the fire and rescue authority, to a chief fire officer or in Scotland a firemaster, who retires before attaining the age of 55, or
- (c) where immediately before the person's retirement an election under rule G3 not to pay pension contributions had effect.

(3) A person to whom this rule applies becomes entitled on retiring to an ordinary pension calculated in accordance with Part I of Schedule 2.

Short service award

B2.—(1) This rule applies, unless immediately before his retirement an election under rule G3(1) not to pay pension contributions had effect, to a regular firefighter who—

- (a) retires on or after normal pension age; and
- (b) is not entitled to any other award under this Part.

- (2) A person to whom this rule applies becomes entitled on retiring—
- (a) if—
 - (i) he is entitled to reckon at least two years' pensionable service; or
 - (ii) a transfer value in respect of his rights under a personal pension scheme has been paid to the scheme,
 to a short service pension calculated in accordance with Part II of Schedule 2; and
 - (b) in any other case, to a short service lump sum of an amount equal to the aggregate of his pension contributions.

Ill health awards

B3.—(1) This rule applies to a regular firefighter who is required to retire under rule A15 (compulsory retirement on grounds of disablement) unless, immediately before his retirement, an election under rule G3(1) not to pay pension contributions had effect.

- (2) A regular firefighter who is entitled—
- (a) to reckon at least two years' pensionable service; or
 - (b) to an award under the Compensation Scheme,
- becomes entitled on retiring—
- (i) where paragraph (3) applies, to a lower tier ill-health pension calculated in accordance with paragraph 2 or 3 (as the case may be) of Part III of Schedule 2,
 - (ii) where paragraph (4) applies, to the pensions referred to in paragraph (5).
- (3) This paragraph applies where, in the opinion of an independent qualified medical practitioner, obtained in accordance with rule H1, the firefighter is capable of undertaking regular employment.
- (4) This paragraph applies where, in the opinion of an independent qualified medical practitioner, obtained in accordance with rule H1, the firefighter is incapable of undertaking regular employment.
- (5) The pensions are—
- (a) a lower tier ill-health pension calculated in accordance with paragraph 2 or 3 (as the case may be) of Part III of Schedule 2; and
 - (b) a higher tier ill-health pension determined in accordance with paragraph 4 of that Part.
- (6) A firefighter who is not entitled to a pension under paragraph (2), becomes entitled on retiring to a short service lump sum of an amount equal to the aggregate of his pension contributions.
- (7) In paragraphs (3) and (4) “regular employment” means employment for at least 30 hours a week on average over a period of not less than 12 consecutive months beginning with the date on which the issue of his capacity for employment arises.

Rule B4 omitted (S.I. 2006/1810)

Deferred pension

- B5.**—(1) This rule applies to a regular firefighter—
- (a) who is entitled to reckon at least 2 years' pensionable service, or
 - (b) in respect of whom a transfer value attributable to his rights under a personal pension scheme has been paid into the scheme, or
 - (c) who is entitled to reckon pensionable service by virtue both of service as a regular firefighter and of a period of other employment which together amount to 2 years or more, or
 - (d) who has an earlier period of service as a regular firefighter which, disregarding breaks in service of not more than a month, is continuous and which after—
 - (i) deducting from it—
 - (aa) any period during which an election under rule G3 not to pay contributions had effect, and

(bb) any period of maternity or adoption leave which does not count as pensionable service as a result of rule F2A or G2A, and

(ii) aggregating the remainder with his pensionable service, amounts to 2 years or more.

(2) If a person to whom this rule applies ceases to be an employee of a fire and rescue authority, otherwise than in pursuance of a notice of retirement stating that he is retiring for the purpose of taking up employment with another fire and rescue authority, or elects under rule G3 not to pay pension contributions, in circumstances in which—

- (a) no transfer value or cash equivalent is payable in respect of him, and
- (b) he does not become entitled to any award under rules B1 to B3,

he becomes entitled to a deferred pension calculated, subject to paragraph (3A), in accordance with Part VI of Schedule 2.

(3) If—

- (a) a person to whom, when he was a regular firefighter, this rule applied has been awarded an ill-health pension under rule B3, and
- (b) that pension is terminated under rule K1A(3) otherwise than on his re-employment with his fire and rescue authority,

he becomes entitled to a deferred pension calculated, subject to paragraph (3A), in accordance with Part VI of Schedule 2.

(3A) Where the person has the role of Station Manager B or a superior role, the calculation required by paragraph (2) or (3) shall be made as if his normal pension age were 60.

(4) A deferred pension becomes payable—

- (a) from the 60th birthday of the person entitled to it, or
- (b) from any earlier date on which he becomes permanently disabled for engaging in firefighting or performing any other duties appropriate to his former role as a firefighter,

and no payment in respect of the pension shall be made for any earlier period.

(5) A person who under rule F4(4)(b) relinquishes his entitlement to a deferred pension ceases to be entitled to it.

Entitlement to two pensions

B5A.—(1) A regular firefighter who—

- (a) on taking up a different role; or
- (b) becoming entitled to a different rate of pay in his existing role,

suffers a reduction in the amount of his pensionable pay such that the amount to be taken into account in the calculation of the pension to which he will be entitled at normal pension age is less than it would otherwise have been, is entitled to two pensions.

(2) The amounts of the pensions shall be those found by applying the formulae set out in paragraphs (3) and (4) but, where the aggregate of those amounts exceeds that of the single award to which the firefighter would be entitled—

- (a) under paragraph (6) if he were to give notice under that paragraph, or
- (b) under paragraph (7) if he were to make an election under rule G3,

his entitlement shall be to an amount equal to the amount of that single award.

(3) The amount of the first pension is that found by applying the formula—

$$A \times \frac{B}{C} \times \frac{D}{60}$$

where—

A is the firefighter's average pensionable pay for the year ending with his last day of service at the higher rate of pay;

B is the firefighter's pensionable service up to that day;

C is the firefighter's total pensionable service; and

D is the total number of 60ths that would have been used in the calculation of his single award had he given the instruction referred to in paragraph (6).

(4) The amount of the second pension is that found by applying the formula—

$$E \times \frac{F}{C} \times \frac{D}{60}$$

where—

C and D have the same meanings as in paragraph (3);

E is the firefighter's average pensionable pay for the year ending with his last day of service; and

F is—

(a) where the aggregate of—

(i) the pensionable service used to ascertain the value of B in his case for the purpose of the formula in paragraph (3); and

(ii) his pensionable service for the period commencing with his first day of service at the lower rate of pay and ending with his last day of service,

exceeds 30, the difference between B and 30;

(b) in any other case, his pensionable service for the period commencing with his first day of service at the lower rate of pay and ending with his last day of service.

(5) Subject to paragraph (6), the pensions become payable on the date on which a pension would have become payable to the firefighter in whichever of the circumstances referred to in rules B1, B2, B3 and B5 applies in his case.

(6) A firefighter who is entitled to two pensions under this rule may, before leaving the employment of the fire and rescue authority by which he is employed, by written notice instruct the authority to make a single award which shall be calculated in accordance with whichever of rules B1, B2, B3 and B5 is applicable in his case.

(7) Where a firefighter who would be entitled to two pensions under paragraph (1) makes an election under rule G3, he shall be entitled instead to a single pension, calculated as if it were a deferred pension to which he was entitled under rule B5.

(8) In paragraph (1), "role", in relation to a firefighter, means the role in which he is for the time being employed, being a role set out in "Fire and Rescue Services Rolemaps" issued by the National Joint Council for Local Authority Fire and Rescue Services in August 2005(a).

Additional pension benefit: long service increment

B5B.—(1) A regular firefighter who—

(a) in respect of a period that includes 30th June 2007 is entitled to a long service increment or an interim or transitional payment connected with long service, and

(b) on or after 1st October 2007—

(i) retires from employment as a regular firefighter, or

(ii) becomes entitled to a deferred pension under rule B5,

shall be credited with an amount of additional pension benefit.

(2) Subject to paragraph (3), the amount of additional pension benefit is that calculated in accordance with the formula—

(a) The document is accessible at [http://www/lge.gov.uk/conditions/firefighters/content/documents/fire service rolemaps.pdf](http://www/lge.gov.uk/conditions/firefighters/content/documents/fire%20service%20rolemaps.pdf).

$$A + (B \times 2) \times \text{£}990$$

60

where—

A is the number in years (counting part of a year as the appropriate fraction) by which the firefighter's pensionable service up to and including 30th June 2007 exceeds 15 but does not exceed 20; and

B is the number in years (counting part of a year as the appropriate fraction) by which his pensionable service up to and including 30th June 2007 exceeds 20.

(3) Where the Retail Prices Index for the month of September preceding the relevant tax year is higher than it was for September 2007, the amount of additional pension benefit (as calculated in accordance with paragraph (2) and, if applicable, this paragraph) shall be increased by the same percentage as the percentage increase in the Retail Prices Index.

(4) Any increase in accordance with paragraph (3) shall be applied with effect from the first Monday of the relevant tax year.

(5) In this rule—

“relevant tax year” means a tax year in relation to which—

(a) the amount of a firefighter's pension benefits is calculated for the purposes of this Scheme; and

(b) he is not in receipt of a pension under this Scheme or entitled to a deferred pension under rule B5; and

“tax year” means the period of 12 months beginning with 6th April.

Additional pension benefit: continual professional development

B5C.—(1) A regular firefighter who, in any CPD year beginning with the year commencing on 1st July 2007, receives CPD payments, shall be credited with an amount of additional pension benefit in respect of that year.

(2) Subject to paragraph (3), the amount of additional pension benefit in respect of a CPD year shall be determined on 1st July immediately following the year in question in accordance with guidance and tables provided by the Scheme Actuary.

(3) Where the Retail Prices Index for the month of September preceding the CPD year is higher than it was for the month of September in the CPD year in question, the amount of additional pension benefit for that CPD year (as calculated in accordance with paragraph (2) and, if applicable, this paragraph) shall be increased by the same percentage as the percentage increase in the Retail Prices Index.

(4) Any increase in accordance with paragraph (3) shall be applied with effect from the first Monday of the relevant tax year.

(5) In this rule—

“CPD payments”, as regards a firefighter, means payments made to him by his employing authority in respect of his continual professional development;

“CPD year” means a period of 12 months beginning with 1st July in which a firefighter is in receipt of CPD payments;

“relevant tax year” means a tax year in relation to which—

(a) the amount of a firefighter's pension benefits is calculated for the purposes of this Scheme, and

(b) he is not in receipt of a pension under this Scheme or entitled to a deferred pension under rule B3;

and a tax year is a relevant tax year in relation to a particular CPD year if it is the tax year in which CPD payments for that CPD year are taken into account; and

“tax year” means the period of 12 months beginning with 6th April.

Additional pension benefit: supplementary provisions

B5D.—(1) Subject to paragraphs (2) and (3), additional pension benefit under rule B5B or B5C is payable [at normal pension age or, in the case of a regular firefighter to whom rule B1 (ordinary pension) applies, from the date of his retirement] [from the date of his retirement].

(2) Where the firefighter resigns or is dismissed or makes an election under rule G3, additional pension benefit is payable at normal benefit age(a); and paragraphs (4) and (5) of rule B5 (deferred pension) shall apply in relation to that benefit as if it were a deferred pension to which he was entitled under that rule.

(3) Where the firefighter is required to retire on grounds of permanent disablement (rule A15), his additional pension benefit is payable immediately.

(4) For the purposes of rules B7 and B8, additional pension benefit shall be treated as if it were a pension payable under this Part.

(5) For the purposes of determining the amount of any survivor’s pension under Part C, Part D or Part E or pension credit under Part IA, additional pension benefit shall be treated as if it were a pension payable under this Part.”.

Repayment of aggregate pension contributions

B6.—(1) This rule applies to a regular firefighter with less than two years’ pensionable service who ceases to be an employee of a fire and rescue authority, otherwise than in pursuance of a notice of retirement stating that he is retiring for the purpose of taking up employment as a regular firefighter with another fire and rescue authority, or elects under rule G3 not to pay pension contributions, in circumstances in which—

- (a) no transfer value or cash equivalent is payable in respect of him, and
- (b) he does not become entitled to any award under rules B1 to B3, B5 or J1.

(2) A person to whom this rule applies becomes entitled to the repayment of his aggregate pension contributions.

(3) Where aggregate pension contributions are repaid under paragraph (2), the fire and rescue authority shall transfer from their Firefighters’ Pension Fund to their general fund an amount equal to the aggregate of the amounts that they have paid by way of employer’s contributions under rule G2(3) in respect of the firefighter concerned.

Commutation-general provision

B7.—(1) This rule applies to an ordinary, short service, ill-health or deferred pension under this Part; in relation to a deferred pension, it has effect as if references to retirement and to the date of retirement were references respectively to the pension’s coming into payment and to the date of its coming into payment.

(2) Subject to paragraph (2A), a person entitled or prospectively entitled to a pension to which this rule applies may commute for a lump sum a portion of the pension (“the commuted portion”).

(2A) A person who retires with an ill-health award may not commute any portion of a higher tier ill-health pension.

(3) The lump sum is the actuarial equivalent of the commuted portion at the date of retirement, calculated from tables prepared by the Government Actuary.

(4) The commuted portion must not in any case exceed a quarter of the full amount of the pension.

(5) In the case of an ordinary pension, unless—

- (a) when the person retires he is entitled to reckon at least 30 years’ pensionable service, or
- (b) he retires at, or after, normal pension age,

.....

(a) By virtue of rule A2(1) of, and Part 1 of Schedule 1 to, the Scheme, “normal benefit age” is 60.

the commuted portion must not be such that the lump sum exceeds two and a quarter times the full amount of the pension.

(6) The full amount of a pension is its amount as calculated under Part I, II, III or VI of Schedule 2, disregarding any reduction under any other provision of this Scheme.

(7) In order to commute a portion of a pension a person must, not earlier than 4 months before his intended retirement nor later than the day before the pension comes into payment, give the fire and rescue authority written notice of commutation specifying the portion.

(8) Notice of commutation takes effect on the date of the person's retirement.

(9) When a person's notice of commutation takes effect the fire and rescue authority shall—

- (a) reduce the pension, as from the effective date, by the commuted portion, and
- (b) within three months of the date of his retirement, pay him the lump sum; but where payment of the pension had commenced before commutation, that sum shall be reduced by the difference between the aggregate payments made in respect of the pension and the aggregate payments that would have been made in respect of it if it had been reduced from the date of retirement.

(10) Where—

- (a) notice of commutation relating to an ill-health pension has taken effect;
- (b) the pension is terminated under rule K1A(3); and
- (c) the person later becomes entitled to another pension, other than an injury pension under the Compensation Scheme, for the purposes of which he is entitled to reckon the period of pensionable service that was reckonable for the purposes of the ill-health pension,

the other pension shall be reduced by the amount by which the ill-health pension would have been reduced if it had not been terminated.

(10A) Where paragraph (10)(c) applies and notice of commutation is given in respect of the other pension, the portion of it that may be commuted is reduced by the amount of the reduction under paragraph (10).

(11) For the purposes of this rule no account shall be taken of any increase under rule I2(3) or rule 2 or 3 of Part 7 of the Compensation Scheme in an award to a serviceman.

Commutation-small pensions

B8.—(1) Where the amount of any pension payable under this Part to a person who has attained state pensionable age, together with any pension to which he is entitled under rule IA1 and any increase under the Pensions (Increase) Act 1971 (a), does not exceed the commutation limit specified for the purposes of Part 1 of Schedule 29 to the Finance Act 2004 (lump sum rule) (b), the fire and rescue authority may commute the pension for a lump sum.

(2) The amount of a lump sum under this rule is the actuarial equivalent of the pension, calculated from tables prepared by the Government Actuary.

(3) Where a person is entitled to more than one pension, the pensions shall be treated as one for the purposes of this rule.

Allocation

B9.—(1) This rule applies to an ordinary, short service, ill-health or deferred pension under this Part.

(2) A person entitled or prospectively entitled to a pension to which this rule applies may allocate a portion of the pension in favour of a beneficiary, that is to say—

- (a) his spouse or civil partner, or

(a) 1971 c.56.

(b) As to "the lump sum rule", see section 166 of the Finance Act 2004. As to the commutation limit, see paragraph 7(4) of Part 1 of Schedule 29 to that Act.

(b) some other person who the fire and rescue authority are satisfied is substantially dependent on him.

(3) A person who has allocated a portion of an ordinary pension may allocate a further portion of it—

- (a) in favour of the same beneficiary, or
- (b) if that beneficiary has died, in favour of some other beneficiary.

.... Paragraph (4) omitted.

(5) No more than one third of a pension may be allocated under this rule.

(6) In order to allocate a portion of a pension a person must give the fire and rescue authority written notice of allocation specifying—

- (a) the portion, and
- (b) the beneficiary,

and must have satisfied the authority that he has a normal life expectancy.

(7) A person's notice of allocation, which may be sent by post, must be given before, but not earlier than two months before, the date on which he intends to retire.

(8) Where a person has complied with paragraphs (6) and (7) the fire and rescue authority shall forthwith notify him in writing that they have accepted the notice of allocation.

(9)

(10) A notice of allocation which has been accepted takes effect only if the person who gave it retires within two months of giving it.

...Paragraph (11) omitted.

(12) Where a notice of allocation has taken effect and the pension to which it relates has become payable, the pension shall, unless the beneficiary has died, be reduced by the allocated portion as from the date from which the pension is payable;

and if the beneficiary survives the pensioner the fire and rescue authority shall, as from the pensioner's death, pay the beneficiary a pension which is the actuarial equivalent of the allocated portion.

(12A) Where—

- (a) after 13th September 2004, a person becomes entitled to be paid a pension which is reduced under paragraph (12); and
- (b) the beneficiary dies after that pension becomes payable,

from the date of the beneficiary's death the pension shall no longer be reduced by the allocated portion.

(13) The actuarial equivalent shall be calculated from tables prepared by the Government Actuary and in force at the time when the notice took effect, which shall—

- (a) take account of the ages of the pensioner and the beneficiary at that time,

.....

and separate calculations shall be made in respect of separate allocations.

.....

(16) For the purposes of this rule no account shall be taken of any increase under rule I2(3) or rule 2 or 3 of Part 7 of the Compensation Scheme in an award to a serviceman.

Limitation of commuted or allocated portion of pension

B10.—(1) A person may not commute under rule B7 or allocate under rule B9—

- (a) so much of any pension that it becomes payable at a rate less than two thirds of the rate at which it would have been payable but for those rules and Parts VII and VIII of Schedule 2, or

- (b) in the case of a deferred pension in relation to which, when it becomes payable, he has a guaranteed minimum, so much of the pension that its weekly amount, including any increase under the Pensions (Increase) Act 1971, is then less than the guaranteed minimum.

(2) For the purposes of this rule no account shall be taken of any increase under rule I2(3) or rule 2 or 3 of Part 7 of the Compensation Scheme in an award to a serviceman.

Deduction of tax and lifetime allowance charge

B11. A fire and rescue authority shall deduct from any payment which is chargeable to tax, or subject to a lifetime allowance charge within the meaning of the Finance Act 2004(a), the amount of tax charged or the amount of charge to be recovered.

Pension debit members

B12. Where a pension debit member is entitled to an award under rule B1, B2, B3 or B5—

- (a) the award is calculated by reference to the member's rights under this Scheme as reduced by virtue of section 31 of the 1999 Act and in accordance with such tables and other guidance as are provided for the purpose by the Government Actuary, and
- (b) rules B7 to B10 have effect accordingly.

Part-time members

B13.—(1) Where a person is entitled to an award under this Part and some or all of his service, by virtue of which his pensionable service is reckonable, was part-time service, his award shall be calculated, subject to paragraph (2), in accordance with Part VIA of Schedule 2.

(2) Where the person has the role of Station Manager B or a superior role, the calculation required by paragraph (1) shall be made as if his normal pension age were 60.

PART C

AWARDS ON DEATH-SPOUSES

Spouse's ordinary pension

C1.—(1) This rule applies where a person entitled to reckon at least 2 years' pensionable service dies, leaving a surviving spouse or civil partner—

- (a) while serving as a regular firefighter, unless an election under rule G3 not to pay pension contributions had effect at the time of his death, or
- (b) while in receipt of an ordinary, short service or ill-health pension, or
- (c) while in receipt of an injury pension under the Compensation Scheme, if he has been but no longer is in receipt both of that pension and of an ill-health pension, or
- (d) in consequence of an injury on account of which he retired from service as a regular firefighter with an ill-health gratuity, if he has not since had any period of such service.

(2) Where this rule applies the surviving spouse is ...*[words omitted]* entitled to an ordinary pension calculated, subject to Part I of Schedule 11 (calculation in certain cases where deceased serving or entitled to pension on 1st July 1973), in accordance with Part I of Schedule 3.

(2A) The surviving civil partner is entitled to an ordinary pension of such amount as bears to the ordinary pension to which he would have been entitled had he been the deceased's surviving spouse (calculated in accordance with Part I of Schedule 3), the same proportion that the deceased's service after 5th April 1988 bears to the whole of his pensionable service.

.... *Paragraphs (3) to (6) omitted.*

(a) See section 214 of the Finance Act 2004 (c.12).

....Rules C2 and C3 omitted.

Spouse's accrued pension

C4.—(1) This rule applies, whether or not the pension has come into payment, where a person entitled to a deferred pension dies leaving a surviving spouse or civil partner.

(2) For the purposes of paragraph (1) a person shall be treated as entitled to a deferred pension if he would have been entitled to one but for its commutation under rule B8.

(3) Where this rule applies—

- (a) a surviving spouse is entitled to an accrued pension calculated in accordance with Part III of Schedule 3; and
- (b) a surviving civil partner is entitled to an accrued pension of such amount as bears to the amount of accrued pension to which he would have been entitled had he been the deceased's surviving spouse, the same proportion that the deceased's service after 5th April 1988 bears to the whole of his pensionable service.

Limitation on award to spouse or civil partner by reference to date of marriage or formation of partnership

C5.—(1) A surviving spouse or civil partner is not entitled to an ordinary pension under rule C1 ...*[words omitted]* or an accrued pension under rule C4 unless he was married to, or had a civil partnership with, the deceased during a period before the deceased last ceased to be a regular firefighter.

(2) A surviving spouse who, but for paragraph (1), would be entitled to a pension ... *[words omitted]* mentioned in that paragraph, is instead entitled to a pension calculated ... *[words omitted]* in accordance with Part IV of Schedule 3.

(3) A surviving civil partner who, but for paragraph (1), would be entitled to a pension mentioned in that paragraph, is instead entitled to a pension of such amount as bears to the pension to which, under paragraph (2), he would have been entitled had he been the deceased's surviving spouse, the same proportion that the deceased's service after 5th April 1988 bears to the whole of his pensionable service.

Spouse's or civil partner's requisite benefit and temporary pension

C6.—(1) This rule applies, with effect from 1st March 1992, where—

- (a) a person entitled to reckon less than 2 years' pensionable service who is or has been a regular firefighter and by whom pension contributions have at any time been payable under rule G2 dies, leaving a surviving spouse or civil partner, after the beginning of the tax year in which he attained or would have attained state pensionable age, and
- (b) rule C4 does not apply.

(2) Where this rule applies the surviving spouse or civil partner is entitled—

- (a) in respect of the first 13 weeks following the death, to a temporary pension, and
- (b) after the last of those 13 weeks, to a requisite benefit pension.

(3) The weekly amount of the temporary pension is A - B, where—

A is the weekly amount, immediately before the deceased died, of his pensionable pay or, as the case may be, his pension or pensions (including any increase under the Pensions (Increase) Act 1971), and

B is the weekly amount of any children's allowances payable in respect of his death.

(4) The requisite benefit pension shall be calculated—

- (a) in the case of a surviving spouse, in accordance with Part V of Schedule 3; and
- (b) in the case of a surviving civil partner, in accordance with that Part subject to the substitution, in paragraphs 1 and 3, of "5th April 1988" for "5th April 1978".

(5) If—

- (a) the deceased dies while serving as a regular firefighter; and
- (b) the amount of the capitalised value of the requisite benefit pension, as calculated by the Government Actuary, is less than that of his average pensionable pay,

the surviving spouse or civil partner is entitled to a gratuity equal to the difference between those amounts.

Award to spouse or civil partner where no other award payable

C7.—(8) This rule applies where—

- (a) a person by whom pension contributions have at any time been payable under rule G2 dies while serving as a regular firefighter before the end of the tax year preceding that in which he would have attained state pensionable age;
- (b) he leaves a spouse or civil partner; and
- (c) rules C1, C4 and C6 do not apply.

(2) Where this rule applies, the surviving spouse or civil partner is entitled—

- (a) in respect of the first 13 weeks following the death, to a temporary pension calculated as if rule C6(2)(a) and (3) had applied; and
- (b) to a lump sum of an amount equal to the deceased's average pensionable pay.

Limitation where spouses living apart

C8.—(1) A surviving spouse or civil partner who at the time of the death was living apart from the deceased is not entitled to any award under rules C1 and C4 to C7.

(2) Except where paragraph (3) applies, a surviving spouse or civil partner who, but for paragraph (1), would be entitled to a pension under rule C1 or C4, is entitled instead to a requisite benefit pension calculated—

- (a) in the case of a surviving spouse, in accordance with Part V of Schedule 3; and
- (b) in the case of a surviving civil partner, in accordance with that Part subject to the substitution, in paragraphs 1 and 3, of “5th April 1988” for “5th April 1978”.

(3) Where—

- (a) the surviving spouse or civil partner would but for paragraph (1) be entitled to a pension under rule C1 or C4, and
- (b) at the time of the death the deceased was making relevant contributions, or was liable to do so by virtue of an agreement or of an order or decree of a competent court,

the surviving spouse or civil partner is entitled to a pension of the appropriate amount.

(4) Relevant contributions are contributions paid or payable—

- (a) for the support of the spouse or civil partner, or
- (b) to the spouse or civil partner for the support of a child of the spouse or civil partner,

the amount of which exceeds that of the requisite benefit pension that would otherwise be payable under paragraph (2).

(5) The appropriate amount is the lesser of—

- (a) the amount of a pension calculated in accordance with, as the case may be, rule C1 ... [*words omitted*] or C4, and
- (b) the amount of the relevant contributions.

(6) The fire and rescue authority may determine that, for such period as they think fit, a pension under paragraph (2) or (3) shall be paid at such increased rate, not exceeding that of the pension which would have been payable but for paragraph (1), as they think fit.

(7) Where but for paragraph (1) the surviving spouse or civil partner would be entitled to a gratuity, the fire and rescue authority may decide that the gratuity be paid in whole or part, as they think fit.

Effect of remarriage

C9.—(1) A person entitled to a pension under this Part who marries, remarries, forms a civil partnership or a subsequent civil partnership is not entitled to receive any payment on account of the pension in respect of any subsequent period; but if the marriage or civil partnership is dissolved or the other party to it dies the fire and rescue authority may pay the whole or any part of the pension for such period after the dissolution or death as they think fit.

(2) Where a person entitled to a gratuity under this Part marries, remarries, forms a civil partnership or a subsequent civil partnership, any part of the gratuity that has not already been paid (“the outstanding amount”) ceases to be payable; but if the marriage or civil partnership is dissolved or the other party to it dies the fire and rescue authority may pay the person the whole or any part of the outstanding amount.

Pension debit members

C10. Where a pension debit member dies leaving a surviving spouse or civil partner, any award under rule C1, C4, C5, C6, C7 or C8, and the pension under any of those rules by reference to which any payment under rule C9 is made, is calculated by reference to the member’s rights under this Scheme as reduced by virtue of section 31 of the 1999 Act and in accordance with such tables and other guidance as are provided for the purpose by the Government Actuary.

PART D

AWARDS ON DEATH-CHILDREN

Child’s ordinary allowance

D1.—(1) This rule applies where a person dies, leaving a child—

- (a) while serving as a regular firefighter, unless an election under rule G3 not to pay pension contributions had effect at the time of his death, or
- (b) while in receipt of an ordinary, short service or ill-health pension, or
- (c) while in receipt of an injury pension under the Compensation Scheme, if he has been but no longer is in receipt both of that pension and of an ill-health pension, or
- (d) in consequence of an injury on account of which he retired from service as a regular firefighter with an ill-health gratuity, if he has not since had any period of such service.

(2) Subject to rule D5, where this rule applies the child is entitled to an ordinary allowance calculated, subject to Part II of Schedule 11 (calculation in certain cases where deceased serving or entitled to pension on 1st July 1973), in accordance with Part I of Schedule 4.

... *Rules D2 and D3 omitted.*

Child’s accrued allowance

D4.—(1) This rule applies, whether or not the pension has come into payment, where a person entitled to a deferred pension dies leaving a child.

(2) Subject to rule D5, where this rule applies the child is entitled to an accrued allowance calculated in accordance with Part III of Schedule 4.

Child’s allowance or special gratuity-limitations

D5.—(1) No allowance or lump sum under this Part shall be paid—

- (a) in respect of a child born on or after the relevant date who is not a child of a marriage that took place, or of a civil partnership that was formed, before that date, or

- (b) by reason of his being a step-child, in respect of a child of a spouse whose marriage to the deceased took place, or of a civil partner whose civil partnership with the deceased was formed, on or after the relevant date, or
- (c) by reason of his being substantially dependent on the deceased, in respect of a child who was not so dependent before the relevant date, or
- (d) by reason of his being an adopted child, in respect of a child adopted on or after the relevant date, or
- (e) except in the case of a legitimate or adopted child of the deceased, in respect of a child who was not substantially dependent on the deceased at the time of the death,

the relevant date being in each case the date on which the deceased ceased to be a regular firefighter.

(2) No allowance under this Part shall be paid in respect of a person who—

- (a) has attained the age of 16 but has not attained the age of 17, and
- (b) is in full-time employment,

unless the employment constitutes full-time training of at least one year's duration for a trade, profession or calling ("full-time vocational training").

(3) No allowance under this Part shall be paid in respect of a person who has attained the age of 17 unless—

- (a) he is permanently disabled and one of the conditions in paragraph (4) is satisfied, or
- (b) he is undergoing full-time education or full-time vocational training and either he has not attained the age of 19 or the condition in paragraph (5) is satisfied.

(4) The conditions mentioned in paragraph (3)(a) are—

- (a) that he was both permanently disabled and substantially dependent on the deceased at the time of the death, or
- (b) that he became permanently disabled while in receipt of an allowance under this Part, or
- (c) that the fire and rescue authority, having regard to all the circumstances, in their discretion determine to pay an allowance to him.

(5) The condition mentioned in paragraph (3)(b) is that he was undergoing full-time education or full-time vocational training immediately before his 19th birthday and either—

- (a) he has since continued to do so without any period of interruption, or
- (b) the fire and rescue authority, having regard to all the circumstances, in their discretion determine to pay an allowance to him notwithstanding any period of interruption.

(6) Part IV of Schedule 4 has effect for the reduction, in certain circumstances, of allowances under this Part.

... *Paragraph (7) omitted.*

Pension debit members

D6. Where a pension debit member dies leaving a child, the reduction in his rights under this Scheme by virtue of section 31 of the 1999 Act is disregarded for the purposes of calculating any award payable under this Part.

PART E

AWARDS ON DEATH-ADDITIONAL PROVISIONS

Lump sum death grant

E1.—(1) On the death of a person while serving as a regular firefighter a lump sum death grant becomes payable unless, at the time of his death—

- (a) he was 75 or more; or

- (b) an election under rule G3 not to pay pension contributions had effect.
 - (2) The grant is payable whether or not any pension or gratuity is payable under Part C.
 - (3) The amount of the grant is twice that of the deceased's pensionable pay, expressed as an annual rate—
 - (a) at the time of the death, or
 - (b) if he was then absent from duty without pay, immediately before that absence began.
 - (4) The grant is to be paid—
 - (a) to any surviving spouse or civil partner who qualifies for it, or
 - (b) if there is no such surviving spouse or civil partner, to the personal representatives.
 - (5) A surviving spouse who qualifies for the grant is one who was not living apart from the deceased at the time of the death.
- ... *Rule E2 omitted.*

Dependent relative's gratuity

- E3.**—(1) This rule applies where a person dies—
- (a) while serving as a regular firefighter, or
 - (b) while in receipt of a pension other than a deferred pension,
- and there is a dependent relative.
- (2) A relative is a person who is, or is a child of, a surviving spouse or civil partner, or a parent, grandparent or child of the deceased, and a dependent relative is any relative who—
- (a) was substantially dependent on the deceased immediately before the death, and
 - (b) is not entitled to any award under this Scheme.
- (3) If the fire and rescue authority think fit, they may grant a gratuity to a dependent relative; but the aggregate of all gratuities granted under this rule in respect of the death shall not exceed the amount of the deceased's aggregate pension contributions.

Payment of balance of contributions to estate

- E4.**—(1) This rule applies where a person dies—
- (a) while in receipt of an ordinary, short service or ill-health pension, or
 - (b) while entitled to a deferred pension, or
 - (c) while serving as a regular firefighter,
- and the aggregate of the relevant amounts is less than the amount of his aggregate pension contributions.
- (2) Where paragraph (1)(a) or (b) applies, the relevant amounts are—
- (a) the sums paid in respect of the pension mentioned in paragraph (1) ("the pension"),
 - (b) if the pension was an ill-health pension and the deceased was also in receipt of an injury pension under the Compensation Scheme, the sums paid by way of pension and gratuity under that Scheme,
 - (c) if the pension was reduced under rule B7 (commutation), the lump sum paid under that rule,
 - (d) if the pension was reduced under rule B9 (allocation), the sums that would otherwise have been paid in respect of the allocated portion,
 - (e) any gratuity payable in respect of the death, and
 - (f) the actuarial value, as calculated in accordance with guidance provided for the purpose by the Government Actuary, of —
 - (i) any surviving spouse's or civil partner's pension or child's allowance payable in respect of the death, and

- (ii) if the deceased member was a pension debit member, any pension credit member's pension deriving from the deceased member's rights.

(3) Where paragraph (1)(c) applies, the relevant amounts are those described in paragraph (2)(e) and (f).

(4) The fire and rescue authority shall pay the difference between the aggregate of the relevant amounts and the deceased's aggregate pension contributions to his personal representatives.

Lump sum in lieu of surviving spouse's or civil partner's pension

E5.—(9) Where the amount of any pension payable under Part C, together with any increase under the Pensions (Increase) Act 1971, does not exceed the commutation limit for the purposes of Part 1 of Schedule 29 to the Finance Act 2004 (lump sum rule)(a), the fire and rescue authority may, subject to paragraph (2) and rule E7, commute the whole or part of the pension for a lump sum.

(2) Where—

- (a) a surviving spouse or civil partner is entitled to a pension under rule C1, and
- (b) the fire and rescue authority are satisfied that there are sufficient reasons, and
- (c) the surviving spouse or civil partner consents, and
- (d) the deceased spouse or civil partner died before his 75th birthday,

the fire and rescue authority may commute the whole or any part of the pension for a lump sum.

(3) A fire and rescue authority may under this rule commute the whole or any part of a pension for a lump sum only when the pension first becomes payable.

(4) The payment of a lump sum on the commutation of the whole or any part of a pension under this rule must be made before the date on which the deceased would have attained the age of 75.

(5) A lump sum under this rule shall be calculated in accordance with such guidance as is provided for the purpose by the Government Actuary.

Lump sum in lieu of child's allowance

E6.—(1) Where the amount of a child's allowance under Part D, together with any increase under the Pensions (Increase) Act 1971, does not exceed the commutation limit for the purposes of Part 2 of Schedule 29 to the Finance Act 2004 (trivial commutation lump sum death benefit)(b), the fire and rescue authority may, subject to the provisions of this rule and rule E7, commute the whole or any part of the allowance for a lump sum.

(2) The allowance may not be commuted unless—

- (a) the fire and rescue authority are satisfied that there are sufficient reasons, and
- (b) a surviving parent or the child's guardian or, if he has neither, the child himself consents, and
- (c) the deceased died before his 75th birthday.

(3) The payment of a lump sum on the commutation of the whole or any part of an allowance under this rule must be made before the date on which the deceased would have attained the age of 75.

(3) A lump sum under this rule shall be calculated in accordance with Part III of Schedule

Limitation on discretion to commute pension or allowance for gratuity

E7.—(1) This rule applies where a person dies while in receipt of an ordinary, short service, ill-health or deferred pension ("the principal pension").

(2) The fire and rescue authority may not under rule E5 or E6 commute the whole or any part of a pension or allowance for a lump sum the actuarial value of which exceeds—

(a) As to "the lump sum rule", see section 166 of the Finance Act 2004.

(b) As to the lump sum rule, see section 166 of the Finance Act 2004 (c.12).

- (a) the permitted amount; or
 - (b) the commutation limit specified for the purposes of Part 1 of Schedule 29 to the Finance Act 2004 (lump sum rule) in paragraph 7(4) of that Part (trivial commutation lump sum).
- (3) The permitted amount is A-B-C, where—
- A is a quarter of the actuarial value of the principal pension, disregarding any reduction under rule B7 (commutation),
 - B is the actuarial value of any lump sum paid under rule E5 or E6, and
 - C is the actuarial value of any lump sum paid under rule B7.
- (4) The actuarial value of any pension ... *[word omitted]* or lump sum is its actuarial value at the time of the deceased's retirement as calculated by the Government Actuary.
- (5) For the purposes of this rule no account shall be taken of an increase under rule I2(3) or rule 2 or 3 of Part 7 of the Compensation Scheme in an award to a serviceman.

Increase of pensions and allowances during first 13 weeks

E8.—(1) Paragraphs (2) to (4) apply to a surviving spouse's or civil partner's ordinary .. *[word omitted]* or accrued pension ("the survivor's pension") where the deceased died—

- (a) while serving as a regular firefighter, or
- (b) while in receipt of a pension.

(2) For each of the first 13 weeks for which it is payable the survivor's pension shall if necessary be increased so that the total of—

- (a) the survivor's pension, and
- (b) any children's allowances payable under this Scheme or the Compensation Scheme,

is not less than the appropriate amount.

(3) The appropriate amount is—

- (a) where paragraph (1)(a) applies, the deceased's pensionable pay for a week, and
- (b) where paragraph (1)(b) applies, the weekly amount of the deceased's pension together with any increase in it under the Pensions (Increase) Act 1971,

immediately before the death.

(4) For the purposes of paragraph (3)(b), any reduction in the deceased's pension under Part VIII of Schedule 2 (uprating of widow's pensions) shall be disregarded.

(5) Paragraphs (6) and (7) apply to a child's ordinary or accrued allowance under this Scheme and to a child's special allowance under the Compensation Scheme where the deceased died as mentioned in paragraph (1) and—

- (a) there is no surviving spouse or civil partner, or
- (b) a surviving spouse or civil partner did not become entitled to a pension which was payable for a continuous period of 13 weeks.

(6) Subject to paragraph (7), for each of the first 13 weeks for which it is payable an allowance shall if necessary be increased—

- (a) so that the amount paid in respect of it is not less than the appropriate amount ascertained in accordance with paragraphs (3) and (4), or
- (b) where two or more allowances are payable, so that the amount paid in respect of each of them is not less than that appropriate amount divided by the number of allowances.

(7) No allowance shall be increased under paragraph (6) for any week for which a pension under this Scheme or an injury pension under the Compensation Scheme is payable to a surviving spouse or civil partner.

Flat-rate awards

E9.—(1) This rule applies where an election has effect under—

- (a) paragraph 2 of Part I of Schedule 3 (spouse's ordinary pension), or
- (b) paragraph 3 of Part III of Schedule 3 (spouse's accrued pension), or
- (c) paragraph 3 of Part I of Schedule 4 (child's ordinary allowance), or
- (d) paragraph 3 of Part I of Schedule 4 as applied by Part III of that Schedule (child's accrued allowance).

(2) Subject to paragraph (3), where paragraph (1)(a) or (b) applies and the deceased retired before 1st October 2004, the amount of the pension is—

- (a) if the deceased's last rank was not higher than sub-officer ("Case A"), £379.78,
- (b) if it was higher than sub-officer but not higher than divisional officer (Grade 1) ("Case B"), £494.54, and
- (c) if it was higher than divisional officer (Grade 1) ("Case C"), £594.18,

increased, in each case, in accordance with paragraph (7).

(2A) Subject to paragraph (3), where paragraph (1)(a) or (b) applies and the deceased retired on or after 1st October 2004, the amount of the pension is—

- (a) if his last role was not higher than Watch Manager A (Case A), £379.78;
- (b) if his last role was higher than Watch Manager A but not higher than Area Manager A (Case B), £494.54; and
- (c) in any other case (Case C), £594.18,

increased, in each case, in accordance with paragraph (7).

(3) Where—

- (a) paragraph (1)(a) applies and the deceased was entitled to reckon at least 10 years' pensionable service, or
- (b) paragraph (1)(b) applies and the deceased ceased to serve as a regular firefighter after 5th April 1975 and would have become entitled to reckon at least 10 years' pensionable service had he continued to serve until—
 - (i) he could have been required to retire on account of age; or
 - (ii) if he died on or after 1st October 2004, normal pension age,

the amount specified in, as the case may be, paragraph (2)(a), (b) or (c) or paragraph (2A)(a), (b) or (c), is increased by £29.91.

(4) Where paragraph (1)(c) or (d) applies and one of the child's parents is alive, the amount of the allowance is—

- (a) in Case A, £107.99,
- (b) in Case B, £127.29, and
- (c) in Case C, £157.02,

increased, in each case, in accordance with paragraph (7).

(5) Subject to paragraph (6), where paragraph (1)(c) or (d) applies and neither of the child's parents is alive, the amount of the allowance is—

- (a) in Case A, £159.11,
- (b) in Case B, £188.84, and
- (c) in Case C, £233.19,

increased, in each case, in accordance with paragraph (7).

(6) The fire and rescue authority may in any particular case from time to time determine to substitute for the amount specified in paragraph (5)(a), (b) or (c) a higher amount not exceeding—

- (a) in Case A, £209.19,

- (b) in Case B, £249.88, and
- (c) in Case C, £311.44.

(7) An amount arrived at under paragraphs (2) to (6) (“the basic rate”) shall be increased to an amount equal to the annual rate (rounded up to the nearest penny) at which the pension or allowance 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.

(8) In calculating an increased amount under paragraph (7) any increase that would have occurred under the 1971 Act in respect of a period beginning before 12th November 1979 shall be disregarded.

(9) If the deceased was a pension debit member, this rule has effect as if the amounts specified in sub-paragraphs (a), (b) and (c) or paragraphs (2) and (2A) were reduced in the same proportion as the member’s rights are reduced by virtue of section 31 of the 1999 Act.

PART F

PENSIONABLE SERVICE AND TRANSFER VALUES

Reckoning of and certificates as to pensionable service

F1.—(1) Subject to paragraph (2), a person is entitled to reckon as pensionable service the total of the periods he is entitled to reckon under rules F2 to F7 and, in the case of a serviceman, any period reckonable under rule I6 (relevant service in armed forces).

(2) No period is reckonable as pensionable service under more than one provision of rules F2 to F7.

(3) Within 6 months of the date on which a person becomes entitled to reckon a period as pensionable service under rule F2A, F3, F4, F5, F6, F6A, F7 or I6 the fire and rescue authority shall supply him with a certificate showing the pensionable service he was entitled to reckon on that date (“the material date”).

(4) A person who is dissatisfied with a certificate supplied to him under paragraph (3) may, within 3 months after being supplied with it, appeal to the Secretary of State, who shall either confirm or vary the certificate.

(5) If he does not appeal, the certificate as supplied, and if he does appeal, the certificate as confirmed or varied, is conclusive as to the pensionable service he was entitled to reckon on the material date.

(6) If he claims a pension or gratuity under this Scheme, or a pension or gratuity under the Compensation Scheme, or dies, after the material date but before a certificate has been supplied, paragraph (3) ceases to apply; if he does so before a certificate has become conclusive, the certificate ceases to have effect and paragraph (4) ceases to apply.

(7) For the purposes of paragraphs (3) to (6) a serviceman shall be treated as only becoming entitled to reckon service under rule I6 if and when he resumes employment with his former fire and rescue authority.

Current service

F2.—(1) Subject to paragraphs (2) and (3), a person serving as a regular firefighter is entitled to reckon as pensionable service—

- (a) any period of service after 30th September 2004, as a regular firefighter in the employment of a fire and rescue authority, except a period during which pension contributions were not payable under rule G2, and
- (b) if he served as a regular firefighter in a brigade after 31st March 1972 and before 1st October 2004, any period of service in that brigade, except a period during which pension contributions were not payable under rule G2, and

- (c) if he was serving in a brigade both on and immediately before 1st April 1972, any period he was entitled to reckon immediately before that date.
- (2) A person is not entitled to reckon as pensionable service by virtue of paragraph (1)—
- (a) if he ceases employment with a fire and rescue authority after 30th September 2004, and again takes up employment with the authority, any period of service before he last took up such employment, or
 - (b) if he left a fire brigade after 31st March 1972 and—
 - (i) rejoined the brigade before 1st October 2004, or
 - (ii) took up employment with a fire and rescue authority on or after that date, any period of service before he last rejoined the brigade or, as the case may be, took up employment with the authority, or
 - (c) any period of absence from duty as a regular firefighter as a result of sickness or injury certified by an independent qualified medical practitioner to be due to his own misconduct, or
 - (d) subject to paragraph (3) and rule F2A, any period of absence from duty without pay, or
 - (e) any period of maternity or adoption leave in respect of which the person has the right to, but does not, pay contributions under rule G2A.
- (3) A regular firefighter may, by written notice given to his employing authority at any time, require them to reckon as pensionable service all or part of any period of absence from duty without pay (excluding absence for maternity, paternity or adoption leave) (the “reckonable period”).
- (4) Where notice is given under paragraph (3), the firefighter shall, within 6 months of giving that notice, pay to the authority—
- (a) the contributions (including any such additional or further contributions as are mentioned in rule G4) that he would have been liable to pay in respect of the reckonable period (in accordance with rule G2(1)) if he had been paid at his normal rate; and
 - (b) subject to paragraph (5), such amount as shall be notified to him by the authority as the amount that would have been payable by them, in accordance with rule G2(3), in respect of his service for that period and if he had been paid at his normal rate.
- (5) A fire and rescue authority may pay the amount notified under sub-paragraph (b) of paragraph (4); and where they do so, the requirements of that sub-paragraph shall cease to apply.
- (6) Nothing in paragraph (3) requires a fire and rescue authority to reckon as pensionable service any reckonable period where—
- (a) in a case to which paragraph (5) applies, the requirements of paragraph (4)(a) have not been met;
 - (b) in any other case, the requirements of paragraph (4)(a) and (b) have not been met.
- (7) Any periods of pensionable service before and after any period of maternity or adoption leave in respect of which the person has the right to, but does not pay, contributions under rule G2A shall be treated as continuous.

Maternity, paternity and adoption leave

F2A.—(1) A woman serving as a regular firefighter is entitled to reckon as pensionable service any period of—

- (a) paid maternity leave;
- (b) unpaid ordinary maternity leave; and
- (c) unpaid maternity leave in respect of which she has paid pension contributions to the fire and rescue authority in accordance with rule G2A,

taken on or after 23rd June 1994.

(2) A person serving as a regular firefighter is entitled to reckon as pensionable service any period of—

- (a) paternity leave;

- (b) ordinary adoption leave;
- (c) paid additional adoption leave, and
- (d) unpaid additional adoption leave in respect of which he has paid pension contributions to the fire and rescue authority in accordance with rule G2A.

Previous service reckonable without payment

F3. A person who—

- (a) has retired from employment with a fire and rescue authority with an ill-health pension, and
- (b) has again taken up employment with the authority as a regular firefighter following an offer of employment under rule K1A(2)(b),

is entitled to reckon as pensionable service the period he was entitled to reckon when he retired.

Previous service reckonable on payment

F4.—(1) A person who—

- (a) has retired from employment with a fire and rescue authority without a pension and without any transfer value or cash equivalent becoming payable by the authority, and
- (b) has within 12 months, with the written consent, applied for before retiring, of the authority from which he retired, taken up employment as a regular firefighter with another fire and rescue authority and
- (c) within 6 months of joining the other authority, or such longer period as the other authority may allow, has undertaken to pay the required amount in accordance with paragraph 1 of Part I of Schedule 6,

is entitled to reckon as pensionable service the period he was entitled to reckon when he retired.

(2) The required amount is A-B+C, where—

A is any sum paid to him on the retirement by way of gratuity or return of his aggregate pension contributions,

B is so much of A as represents a return of such additional and further payments as were mentioned in articles 57 to 59 of the 1973 Scheme, and

C is the balance outstanding immediately before the retirement of any sum he had undertaken to pay in accordance with paragraph 1 of Part I of Schedule 6.

(3) A person who—

- (a) has retired from employment with a fire and rescue authority with no pension other than an ill-health pension the unsecured portion of which has been terminated as mentioned in rule K1(3), and
- (b) has again has taken up employment as a regular firefighter with that or another fire and rescue authority, and
- (c) within 6 months of taking up that employment, or such longer period as his employing authority may allow, has undertaken to pay in accordance with paragraph 1 of Part I of Schedule 6 a sum calculated in accordance with paragraph 2 of that Part,

is entitled to reckon as pensionable service the period he was entitled to reckon when he retired.

(4) A person who—

- (a) has retired from employment with a fire and rescue authority with a deferred pension, and
- (b) has by written notice to the authority relinquished the pension, and
- (c) has again taken up employment as a regular firefighter with that or another fire and rescue authority, and
- (d) within 6 months of taking up that employment, or such longer period as his employing authority may allow, has undertaken to pay the required amount in accordance with paragraph 1 of Part I of Schedule 6,

is entitled to reckon as pensionable service the period he was entitled to reckon when he retired.

(5) If immediately before the retirement a person entitled to reckon service under paragraph (4) was making by way of contributions any such additional or further payments as were mentioned in articles 57 and 58 of the 1973 Scheme—

- (a) the fire and rescue authority from whose employment he retired shall repay him the amount he paid by way of such contributions, and
- (b) he shall be treated as having neither paid nor elected to pay the contributions.

Period during which injury pension was payable

F5.—(1) A person who—

- (a) (i) on retiring from a brigade before 1st October 2004, or from employment with a fire and rescue authority before 1st April 2006, became entitled to an injury pension under rule B4 (as it existed before that date); or
- (ii) on retiring from employment with a fire and rescue authority on or after 1st April 2006, becomes entitled to an injury pension under the Compensation Scheme, and
- (b) resumed service as a regular firefighter in that or another brigade before 1st October 2004, or took up employment with a fire and rescue authority on or after that date following an offer of employment under rule K1A(2)(b), and
- (c) within 6 months of his resuming service, or taking up that employment, or such longer period as the fire authority, or as the case may be, the fire and rescue authority, may allow, has undertaken to pay the required amount in accordance with paragraph 1 of Part I of Schedule 6,

is entitled to reckon as pensionable service the period during which he was entitled to the injury pension (“the pension period”).

(2) The required amount is the total of the pension contributions (excluding such additional and further contributions as were mentioned in articles 57 and 58 of the 1973 Scheme) that would have been payable by him for the pension period if he had continued to serve as a regular firefighter in the rank he held or, as the case may be, role he had immediately before the retirement.

War service

F6.—(1) Parts I to V of Schedule 7 have effect for determining the circumstances in which, and the extent to which, war service is reckonable as pensionable service.

(2) Part VI of Schedule 7 has effect for determining the circumstances in which additional transfer values are payable in respect of war service, and their amounts.

Previous service reckonable following actionable loss

F6A.—(1) This rule applies to a regular firefighter who—

- (a) has opted out or transferred out or both,
- (b) has suffered actionable loss as a result of a contravention which is actionable under section 62 of the Financial Services Act 1986(a) (actions for damages in respect of contraventions of rules etc. made under the Act).

(2) A regular firefighter—

- (a) to whom this rule applies, and
- (b) who has given notice under rule G3(5) canceling his election under rule G3(1),

may give written notice to the fire and rescue authority that he wishes them to accept payment of a transfer value in order to create or restore his reckonable service.

(3) Paragraph (4) or (5) applies where the fire and rescue authority have accepted—

(a) 1986 c.60.

- (a) within twelve months of the date of the notice given under paragraph (2), or
- (b) such longer period as they may allow,

payment of a transfer value in relation to a regular firefighter by whom a notice has been given under paragraph (2) (whether or not he has ceased to be a regular firefighter after the date of the notice) not exceeding the amount which they calculate in accordance with rule F6B would need to be made as a restitution payment in respect of him.

(4) Where the amount of the transfer value equals the amount which the fire and rescue authority calculate in accordance with rule F6B would need to be made as a restitution payment in respect of that firefighter—

- (a) the whole of the relevant period shall be treated as reckonable service, and
- (b) he shall be treated for the purposes of calculating any award under this Scheme as having made pension contributions throughout the period of reckonable service credited under this paragraph.

(5) Where the amount of the transfer value is less than the amount which the fire and rescue authority calculate in accordance with rule F6B would need to be made as a restitution payment in respect of that firefighter—

- (a) the fire and rescue authority shall calculate in accordance with the methods and assumptions required by rule F6B the period of reckonable service that the transfer value represents and treat as reckonable service such period,
- (b) he shall be treated for the purposes of calculating any award under this Scheme as having made pension contributions throughout the period of reckonable service credited under this paragraph, and
- (c) that period shall be treated as a continuous period with the same final date as the final date of the relevant period.

(6) Where a regular firefighter who is being credited under paragraph (4) or (5) with a period of reckonable service has previously been credited with an additional period of reckonable service calculated in accordance with Part IV of Schedule 6 (amount of transfer value) in respect of the relevant period, the fire and rescue authority may adjust the amount of the transfer value that they accept under this rule to ensure that no part of the additional period of reckonable service that was previously credited is included in the period of reckonable service credited under paragraph (4) or (5).

(7) In this rule and rule F6B—

- (a) a person shall be taken to have opted out if he had elected under rule G3(1) (election not to pay pension contributions) not to pay pension contributions and for any period during which he was a regular firefighter he instead made contributions to a personal pension scheme;
- (b) a person shall be taken to have transferred out if a transfer value has been paid in respect of him under rule F9 (payment of transfer values) by a fire and rescue authority to a personal pension scheme; and
- (c) *sub-paragraph omitted*
- (d) “relevant period”, in relation to a regular firefighter, means the total of any periods of opted out and, where appropriate, transferred out service.

Calculation of amount of restitution payment

F6B.—(1) A fire and rescue authority shall calculate in accordance with this rule the restitution payment that would be need to be made to them in respect of a person to whom rule F6A applies to create or restore his position to what it would have been if he had not opted out or, where relevant, also transferred out.

(2) The restitution payment for a regular firefighter is an amount equal to the sum of—

- (a) the capitalised value at the material date, determined in accordance with the relevant methods and assumptions, which would produce a service credit equal to his total period of opted out

service, including the capitalized value of any rights under the Pensions (Increase) Act 1971(a) and the Pensions (Increase) Act 1974(b); and

- (b) in the case of a regular firefighter who also transferred out, the greater of—
- (i) any transfer value paid to a personal pension scheme in respect of his transferred out service by a fire and rescue authority under rule F9 (payment of transfer values), increased by interest calculated at a rate approved by the Government Actuary over the period from the date of payment of that transfer value to the assumed calculation date; and
 - (ii) the cash equivalent transfer value that would be payable by the fire and rescue authority in respect of that transferred out service if they were to pay a cash equivalent transfer value in respect of that service determined in accordance with the relevant methods and assumptions applicable immediately after the assumed calculation date.

(3) In this rule—

“assumed calculation date” means the date on which it is assumed, for the purpose of calculating a restitution payment, that a transfer value will be paid to the fire and rescue authority;

“material date” means the date on which the fire and rescue authority receives a notice under rule F6A(2); and

“relevant methods and assumptions” means ones notified by the Government Actuary for the calculation of cash equivalent values for occupational pension schemes.

Receipt of transfer value

F7.—(1) Subject to paragraphs (2) to (4) and (6), a fire and rescue authority may accept a transfer value offered to them, in respect of a person who has taken up employment with them as a regular firefighter, by the scheme managers of a superannuation scheme to which he was subject in previous service or employment (“the previous scheme”).

(2) The person must have made a written request to the authority, not later than 12 months after taking up employment with them, for the transfer value to be accepted.

(3) A transfer value may not be accepted—

- (a) if one was accepted before 1st March 1992 in relation to the same transfer, or
- (b) where the person became a regular firefighter before 1st March 1992, if a transfer value could not have been accepted under article 52B of the 1973 Scheme, or
- (c) if he had a guaranteed minimum in relation to a pension provided by the previous scheme unless—
 - (i) the previous scheme is a club scheme, or
 - (ii) the transfer value offered is of at least the required amount.

(4) The required amount is $A \times B$, where—

A is the annual amount of the guaranteed minimum pension to which he would be entitled under rule J1 if the transfer value were accepted, and

B is the factor ascertained from the Table below by reference to his age at the date on which he requested the fire and rescue authority to accept it.

<i>Age</i>	<i>Factor</i>
29 or under	8
30 to 39	9
40 to 49	10
50 or over	12

(a) 1971 c.56.

(b) 1974 c.9.

(5) A person in respect of whom a transfer value is accepted is entitled to reckon as pensionable service a period calculated in accordance with Part II of Schedule 6.

(6) A transfer value may not be accepted in respect of any pension credit rights.

Transfer payments to Scottish and Welsh fire and rescue authorities

F8.—(1) Where, on or after 1st April 2006—

- (i) a person who retired from an English fire brigade before 1st October 2004 or from an English fire and rescue authority after 30th September 2004 (“the first employment”) takes up employment as a regular firefighter with a Scottish or Welsh fire and rescue authority; and
- (ii) becomes entitled under rule F4 (previous service reckonable on payment) to reckon as pensionable service the period he was entitled to reckon when he retired,

the authority responsible for the person in the first employment shall, subject to paragraph (2), pay to the Scottish or Welsh fire and rescue authority (as the case may be) a sum calculated in accordance with Part III of Schedule 6.

(2) No sum may be paid in respect of any pension credit rights

Payment of transfer values

F9.—(1) Subject to paragraphs (2) to (8A), a fire and rescue authority—

- (a) may pay a transfer value in respect of a person who has, before attaining state pensionable age, either ceased to be employed by the authority as a regular firefighter or elected under rule G3 not to pay pension contributions and has become subject to another superannuation scheme (“the receiving scheme”), and
- (b) shall pay a transfer value in respect of such a person if the receiving scheme is an approved scheme.

(2) The person must within 6 months after becoming subject to the receiving scheme, or such longer period as the fire and rescue authority may in the circumstances allow, have made a written request to the authority for the transfer value to be paid.

(3) A transfer value may not be paid if one was paid before 1st March 1992 in relation to the same transfer.

(4) A transfer value may not be paid if the person has received any payment in respect of a pension to which he became entitled under Part B on ceasing to serve as a regular firefighter.

(5) A transfer value may not be paid if the person has received any gratuity or repayment of pension contributions to which he became entitled under Part B on ceasing to serve as a regular firefighter, unless he—

- (a) became subject to the receiving scheme within 12 months, or such longer period as the fire and rescue authority may in the circumstances allow, after ceasing to serve, and
- (b) has, within the period allowed by paragraph (2) for requesting payment of the transfer value, repaid to the authority the amount paid to him.

(6) A transfer value may not be paid if the person has a guaranteed minimum in relation to a pension provided by this Scheme, unless—

- (a) the receiving scheme is a contracted-out scheme, or
- (b) a contributions equivalent premium has been paid in respect of him by the fire and rescue authority and has not been repaid.

(7) A transfer value may not be paid if the person has acquired a right to a cash equivalent, unless—

- (a) the service to which the cash equivalent relates includes service before 1st October 1990, and
- (b) the right has been exercised by requiring the whole of the cash equivalent to be paid to the scheme managers of an approved scheme which is not a club scheme.

- (8) A transfer value may not be paid if the person—
- (a) has acquired a right to a part cash equivalent, and
 - (b) would on taking that right remain entitled to a deferred pension.
- (8A) A transfer value may not be paid in respect of any pension credit rights.
- (9) If a transfer value or cash equivalent is paid any award to which the person became entitled under Part B on ceasing to serve as a regular firefighter ceases to be payable.
- (10) Part IV of Schedule 6 has effect for determining the amounts of transfer values payable under this rule.

PART G

PENSIONABLE PAY AND CONTRIBUTIONS

Pensionable pay and average pensionable pay

G1.—(1) Subject to paragraph (2), the pensionable pay of a regular firefighter is the aggregate of—

- (a) the amount determined in relation to the performance of the duties of his role (whether as a whole-time or part-time employee); and
- (b) the amount (if any) paid to him in respect of his continual professional development.

(2) For the purposes of paragraph (1), in the case of a person by whom pension contributions became payable after 31st May 1989 either—

- (a) for the first time, or
- (b) following any period in respect of which they were not payable,

except where regulation 4 of the Retirement Benefit Schemes (Tax Relief on Contributions) (Disapplication of Earnings Cap) Regulations 1990^(a) applies his pay shall be taken not to include any excess, in any tax year, over the figure which is the permitted maximum for that year for the purposes of section 594(2) and (3) of the Income and Corporation Taxes Act 1988^(b) (that is to say, the figure specified for the year by an order made by the Treasury under section 590C(6) of that Act).

(2A) For the purposes of rule G2, the pensionable pay of a regular firefighter during a period of maternity, paternity or adoption leave shall be deemed to be the pay to which the person is entitled for that period including any statutory maternity, paternity or adoption pay under the Social Security Contributions and Benefits Act 1992.

(3) The average pensionable pay of a regular firefighter is, subject to paragraphs (5) to (7C), the aggregate of his pensionable pay for the year ending with the relevant date.

(4) The relevant date is—

- (a) for the purposes of rule C7 (spouse's or civil partner's award where no other award payable), and the Compensation Scheme, the date of the person's last day of service as a regular firefighter, and
- (b) for all other purposes of this Scheme, the date of his last day of service in a period during which pension contributions were payable under rule G2.

(5) Subject to paragraphs (6) and (7), if he was in receipt of pensionable pay for part only of the year ending with the relevant date, his average pensionable pay is the aggregate of his pensionable pay for that part multiplied by the reciprocal of the fraction of the year which that part represents.

(6) For the purposes of paragraphs (3) and (5) any reduction of pensionable pay as a result of any—

- (a) sick leave;
- (b) stoppage by way of punishment;

^(a) S.I. 1990/586.

^(b) 1988 c.1; section 590C was inserted, and section 594 amended, by the Finance Act 1989 (c.26), section 75 and Schedule 6 paragraphs 4 and 6.

- (c) ordinary maternity, ordinary adoption or paternity leave;
- (d) paid additional maternity or additional adoption leave; or
- (e) unpaid additional maternity or additional adoption leave where contributions have been paid under rule G2A,

shall be disregarded.

(7) If the amount determined in accordance with paragraphs (3) to (6) is less than it would have been if the relevant date had been the corresponding date in whichever of the two preceding years yields the highest amount, that corresponding date shall be taken to be the relevant date.

(7A) The average pensionable pay of a regular firefighter who—

- (a) is entitled to a long service increment; and
- (b) retires after 30th September 2006 and before 1st October 2007, or becomes entitled to a deferred pension under rule B5 within that period,

shall be calculated—

- (i) as if his long service increment had accrued at the rate of £990 per annum (disregarding the reduction in the amount of the long service increment that had effect in relation to times on and after 1st October 2006), and
- (iii) disregarding any LS-related payment.

(7B) The average pensionable pay of a regular firefighter who—

- (a) is entitled to additional pension benefit under rule B5B (additional pension benefit: long service increment), and
- (b) retires on or after 1st October 2007,

shall be calculated on the basis of whichever of the following paragraphs yields the greater amount—

- (i) the calculation is made with regard to the amount credited to him under rule B5B, but without regard to his long service increment and any LS-related payment, or
- (ii) with regard to his long service increment and any LS-related payment, but without regard to the amount credited to him under rule B5B.

(7C) The average pensionable pay of a regular firefighter shall be calculated without reference to any additional pension benefit credited under rule B5C (additional pension benefit: continual professional development).

(7D) In paragraphs (7B) and (7C) “LS-related payment” means an interim or transitional payment made to a regular firefighter in connection with his long service.

(8) A regular firefighter’s average pensionable pay for a week is his average pensionable pay divided by 52 1/6th.

Pension contributions

G2.—(1) A regular firefighter shall, except while an election under rule G3 has effect, pay pension contributions to the fire and rescue authority at the rate specified in paragraph (1A).

(1A) The rate is—

- (a) for a person who takes up employment with the authority on or after 6th April 2006, 8.5 per cent of his pensionable pay;
- (b) in any other case, 11 per cent of his pensionable pay.

(2) The contributions payable under paragraph (1) on each instalment of pay are due at the same time as that instalment and, without prejudice to any other method of payment, may be deducted by the fire and rescue authority from the instalment.

(3) For each financial year beginning with the financial year commencing on 1st April 2006, each fire and rescue authority shall, by transfer to their Firefighters’ Pension Fund from any other fund maintained by them, make an annual contribution towards the discharge of their future liability for the payment of pensions under this Scheme.

(4) The annual contribution shall be such percentage of the authority's estimate of the aggregate of the pensionable pay, for the year in respect of which the contribution is made, of those firefighters employed by the authority who are required by paragraph (1) to make pension contributions in that year, as shall have been notified to them for that year by the Secretary of State.

(5) Where a firefighter elects under rule G3(1) not to pay pension contributions, nothing in paragraphs (3) and (4) shall require an authority to make a contribution in respect of their future liability for the payment of his pension as regards—

- (a) in the financial year in which notice of that election is given, the part of the year that falls after the first date after the notice is received on which an instalment of pay falls due; and
- (b) any later period in which the election not to pay pension contributions has effect.

Optional pension contributions during maternity and adoption leave

G2A.—(1) A regular firefighter who—

- (a) is on maternity or adoption leave, which would not otherwise count as pensionable service under rule F2A; and
- (b) who, for the whole or part of the leave period, is not entitled to receive pay (including any statutory maternity or adoption pay under the Social Security Contributions and Benefits Act 1992),

may elect to pay pension contributions in respect of that leave period.

(2) The contributions shall be calculated by applying rule G2 to the pensionable pay (pay (including any statutory maternity or adoption pay under the Social Security Contributions and Benefits Act 1992) received by him immediately before the start of the unpaid period in question.

(3) An election must be made by giving notice in writing to the fire and rescue authority before the expiry of the period of 30 days (or such longer period as the authority may allow) beginning with—

- (a) the day on which he returns to work, or
- (b) if he does not return to work after the leave period, the day he ceases to be employed by the authority.

(4) Where a person dies before the end of the period in paragraph (3) without having given the required notice, he shall be deemed to have given the notice and to have paid the contributions.

(5) On receipt of the notice, the fire and rescue authority shall calculate the amount of contributions due and shall give notice in writing of that amount to the person concerned.

(6) Where the full amount of contributions due has not been paid within 6 months of the date of the notice in paragraph (5), the person concerned shall be entitled to reckon as pensionable service such proportion of the period in respect of which contribution were due, as the contributions paid relate to the total amount of contributions due.

(7) Where the period of additional maternity or additional adoption leave ended prior to 13th September 2004, the provisions of this rule shall apply where the person gives written notice to his fire and rescue authority (or, if he left, to the fire and rescue authority by whom he was last employed) by 1st January 2005.

Election not to pay pension contributions

G3.—(1) Subject to paragraphs (1A) and (8), a regular firefighter may at any time, by giving written notice to the fire and rescue authority elect that rule G2 is not to apply in his case.

(1A) An election not to pay contributions may not be made solely in respect of contributions relevant to additional pension benefit under rule B5C (additional pension benefit: continual professional development).

(2) Subject to paragraphs (3) and (3A), an election under paragraph (1) takes effect on the first date after the notice is received on which an instalment of pay falls due.

(3) In the case of a person who has given notice under paragraph (1) within 3 months after the date on which he last became a regular firefighter (“the material date “), the election shall be treated as having taken effect on the material date.

(3A) Where—

- (a) a person gives notice under paragraph (1) within 3 months of taking up employment with the authority as a regular firefighter]; and
- (b) no transfer of pension rights from another pension scheme has been made in respect of him, the election shall be treated as given on his first day of employment and the fire and rescue authority shall repay the pension contributions paid by him.

(4) Where an election is to be treated as having taken effect on the material date—

- (a) the fire and rescue authority shall repay the person the pension contributions paid by him since that date, and
- (b) for the purposes of rules C6 and C7 pension contributions shall be taken not to have been payable by him at any time.

(4A) Where aggregate pension contributions are repaid under paragraph (3A), the fire and rescue authority shall transfer from their Firefighters’ Pension Fund to their general fund an amount equal to the aggregate of the amounts that they have paid by way of employer’s contributions under rule G2(3) in respect of the firefighter concerned.

(5) Subject to paragraphs (5A) and (6), a person who has made an election under paragraph (1) may cancel it by giving written notice to the fire and rescue authority .

(5A) Except in the case of a person to whom rule F6A applies, a notice under paragraph (5) must be given no later than his 45th birthday.

(6) Except in the case of a person to whom rule F6A applies, the fire and rescue authority may resolve that a person’s election may not be cancelled unless he has undergone a medical examination, at his own expense, and satisfied them as to his good health.

(7) Where an election is cancelled it ceases to have effect on the first date after the notice is received on which an instalment of pay falls due.

(8) A person who has cancelled an election made under paragraph (1) may not make a further election under that paragraph during the same period of service as a regular firefighter.

(9) References in this Scheme to any period during which an election under this rule not to pay pension contributions had effect shall not include any period in respect of which a transfer value or lump sum has been paid under rule F6A.

Continued payment of additional and further contributions

G4. A regular firefighter who immediately before 1st March 1992 was still liable to pay additional or further contributions pursuant to an election under article 58(2) or (3) of the 1973 Scheme shall continue to pay them, except while an election under rule G3 has effect, for so long as they would have remained payable if that Scheme had not been revoked.

Purchase of increased benefits

G5.—(1) For the purpose of securing increased benefits as provided in rule G8, additional sixtieths of average pensionable pay may be purchased in accordance with rules G6 and G7 by eligible persons.

(2) An eligible person is a regular firefighter—

- (a) who is paying pension contributions under rule G2,
- (b) to whom Part IV of Schedule 11 does not apply,
- (c) whose normal pension age is at least 9 years after the date on which he last became a regular firefighter, and

- (d) who at his normal pension age would be entitled to reckon less than 30 years' pensionable service.

.....

Election to purchase increased benefits

G6.—(1) Subject to paragraphs (2) to (4) .. *[words omitted]*, an eligible person may, by giving written notice to the fire and rescue authority, elect to purchase a specified number of sixtieths of his average pensionable pay by paying to the fire and rescue authority—

- (a) a lump sum calculated in accordance with paragraph 1 or 2 of Part I of Schedule 8, or
- (b) periodical contributions calculated in accordance with paragraph 3 or 4 of that Part.

(2) The number of sixtieths specified—

- (a) must not be such that, if he continued to serve as a regular firefighter until his normal pension age, more than 40 sixtieths of his average pensionable pay would count in calculating his pension, and
- (b) need not be a whole number.

(3) An election to pay a lump sum—

- (a) must be made within 12 months after the date on which he last became a regular firefighter, and
- (b) if the sum is not paid within 3 months after the date on which notice was given, shall be treated as not having been made.

(4) An election to pay periodical contributions must be made at least 2 years before the person's normal pension age, but no such election may be made—

- (a) if the fire and rescue authority have notified him that they require him to retire under rule A14 (efficiency) or A15 (disablement), or
- (b) if the fire and rescue authority so resolve, unless he has at his own expense undergone a medical examination and satisfied the authority as to his good health.

(5) An election under this rule—

- (a) takes effect, subject to paragraph (3)(b), on the day on which the written notice is received by the fire and rescue authority, and
- (b) is irrevocable.

Payment of periodical contributions for increased benefits

G7.—(1) Subject to paragraphs (2) and (3), where a person has elected under rule G6 to pay periodical contributions they are payable from his next birthday and continue to be payable until the earliest of—

- (a) his normal pension age,
- (b) the date on which he ceases to serve as a regular firefighter, and
- (c) the date on which any election under rule G3 takes effect.

(2) If before his normal pension age 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 the fire and rescue 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.

... *Paragraph (4) omitted.*

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 normal pension age,

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 an employee of a fire and rescue authority 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 normal pension age, 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.

.... *Rule G9 omitted.*

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 and rescue 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 the person would be able to undertake regular employment within the meaning given by rule B3(7),
- (d) [*sub-paragraph (d) omitted*]

- (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 authority shall obtain the written opinion of an independent qualified medical practitioner selected by them and the opinion of the independent qualified medical practitioner shall be binding on the authority.

- (2A) In his written opinion, the independent qualified medical practitioner must certify that—
- (a) he has not previously advised, or given his opinion on, or otherwise been involved in, the particular case for which the opinion has been requested; and
 - (b) he is not acting, and has not at any time acted, as the representative of the employee, the authority, or any other party in relation to the same case.

(3) If by reason of the person's refusal or wilful or negligent failure to submit to medical examination by the practitioner 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 and rescue 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 the person concerned is dissatisfied with the opinion which has been supplied to him under paragraph (1), he may appeal against it by giving notice to the fire authority in accordance with paragraph 1 of Part I of Schedule 9.

(3) A fire and rescue authority shall be bound by any decision on any issue referred to in subparagraphs (a) to (f) of rule H1(2) 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 and rescue 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 and rescue 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 and rescue 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 ... [*words omitted*] the fire and rescue 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) Schedule 6 to the Compensation Scheme 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).

(2A) Subject to paragraph (3), where this rule applies rule D1 (child's ordinary allowance) has effect as if the serviceman had died in the circumstances mentioned in rule D1(1).

(3) If the serviceman dies from the effects of an injury received during his forces period ... [*words omitted*] the fire and rescue authority may, in their discretion—

- (a) pay the surviving spouse or civil partner, 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) Schedule 6 to the Compensation Scheme has effect for limiting increases under paragraph (3)(b) above.

... [*Rule 14 omitted*]

Servicemen who do not resume service in their former brigade

15.—(1) Subject to paragraph (3), a serviceman who does not resume employment with his former fire and rescue authority within one month from the end of his forces period shall be treated for the purposes of the material provisions as having left the employment of that authority 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 and rescue authority's consent to taking up employment with new fire and rescue authority) within one month from the end of his forces period.

Pensionable service

16. For the purposes of rule F2(1) a serviceman shall be treated as having continued in the employment of his former fire and rescue authority throughout his forces period.

Pension contributions

17.—(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 in the employment of his former fire and rescue authority.

(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).

(a) 1951 c.65.

PART IA
PENSION CREDIT MEMBERS

Pension credit member's entitlement to pension

IA1.—(1) Subject to rule IA2, a pension credit member is entitled to a pension for life which becomes payable—

- (a) when he attains normal benefit age, or
- (b) if it is later, when the pension sharing order under which he is entitled to the pension credit takes effect.

(2) The pension must be of such an amount that its actuarial value is equal to the member's pension credit, as calculated from tables prepared by the Government Actuary and in accordance with regulations made under paragraph 5(b) of Schedule 5 to the 1999 Act.

Commutation of the pension credit benefits

IA2.—(1) In the circumstances described in regulation 3(2)(b) of the Pension Sharing (Pension Credit Benefit) Regulations 2000^(a) (commutation of pension credit benefit: small pensions), the relevant fire and rescue authority may commute for a lump sum the whole of the pension to which a pension credit member is entitled under rule IA1.

(2) A person entitled or prospectively entitled to such a pension may commute for a lump sum a portion of the pension ("the commuted portion").

(3) But paragraph (2) does not apply if the pension debit member from whose rights the pension credit member's pension credit is derived has received a lump sum under rule B7 before the date on which the pension sharing order takes effect.

(4) The lump sum under paragraph (2) is the actuarial equivalent of the commuted portion at the normal benefit age, calculated from tables prepared by the Government Actuary.

(5) But the lump sum under paragraph (2) may not exceed the annual rate of the pension for the first year it is payable (disregarding any reduction under this rule or any other rule of the Scheme), multiplied by 2.25.

(6) A person who wishes to commute a portion of a pension under paragraph (2) must not later than 6 months after—

- (a) the date on which the person attains normal benefit age, or
- (b) the date on which the pension sharing order takes effect,

whichever is the later, give the relevant fire and rescue authority written notice of commutation, specifying the portion to be commuted.

(7) Notice of commutation takes effect on the later of—

- (a) the date on which the pension under rule IA1 becomes payable, and
- (b) the date on which it is received by the fire and rescue authority.

(8) When a person's notice of commutation takes effect, the relevant fire and rescue authority shall—

- (a) reduce the pension, as from the effective date, by the commuted portion, and
- (b) pay him the lump sum, reduced where the effective date is the date of receipt of the notice, by the difference between the aggregate payments made in respect of the pension and the aggregate payments that would have been made in respect of it if it had been reduced from—
 - (i) the date on which the person attains normal benefit age, or
 - (ii) the date on which the pension sharing order takes effect,

whichever is the later.

^(a) S.I. 2000/1054, amended by S.I. 2000/2691.

Death grants where pension credit member dies before pension credit benefits payable

IA3. If a pension credit member dies before any benefits deriving from the member's pension credit have become payable to him under this Scheme, a lump sum death grant is to be paid to the personal representatives of an amount equal to the annual rate of the pension to which the member would have been entitled under rule IA1 if he had attained normal benefit age on the date of his death (as calculated from tables prepared by the Government Actuary) multiplied by 2.25.

Application of general rules

IA4.—(1) The provisions of this Scheme specified in paragraph (2) apply to pension credit members and awards payable to or in respect of them, but apart from where provision is made by this Part or a contrary intention is otherwise indicated—

- (a) this Scheme shall not apply to pension credit members and benefits payable to or in respect of them, except if and to the extent that they are also members of another description or dependants of a member, and
- (b) the benefits payable to or in respect of pension credit members are not aggregated for any purpose with benefits payable to or in respect of those persons in any other capacity or as pension credit members deriving their pension credit benefits from any their pension debit member.

(2) Those provisions are—

- rule H1 (determination by fire authority),
- rule H3 (appeal to Crown Court or Sheriff),
- rule K5 (withdrawal of pension on conviction of certain offences),
- rule LA1 (establishment, maintenance and operation of Firefighters' Pension Fund),
- rule L3 (payment of awards), and
- rule L5(1) to (5) and (10) (payments of awards – supplementary).

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 before 6th April 1997 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,
- (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 up to and including the tax year 1996-97, and
- (d) in the case of a person who dies at any time after 4th December 2005 and leaves a civil partner, the civil partner is entitled to a pension at a weekly rate equal to half of the deceased's guaranteed minimum.

(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 or the fire and rescue authority, as the case may be, before he attained state pensionable age has effect.
- (4) An entitlement to a pension under paragraph (2)(b), (c) or (d) ceases if the person entitled marries, remarries, forms a civil partnership or a subsequent civil partnership before attaining state pensionable age.
- (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 pension includes any increase in it under the Pensions (Increase) Act 1971(a).
- (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 section 95(1) of the Pension Schemes Act 1993(b) (“the 1993 Act”) wholly or partly in the way specified in section 95(2)(c) of that Act (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 19(3) of the 1993 Act—
- (a) for the purposes of section 14(2) of that Act (amount of guaranteed minimum) his earnings factors shall be determined by reference to the last order under section 21 of the Social Security Pensions Act 1975(c) or section 148 of the Social Security Administration Act 1992(d) to come into force before the end of the tax year in which he ceased to serve as a regular firefighter 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 14(2) of the 1993 Act shall be increased—
 - (i) by at least the prescribed percentage for each relevant year after the end of the tax year in which he ceased to serve as a regular firefighter or, as the case may be, in which his election under rule G3 took effect, and
 - (ii) in accordance with any additional requirements as may be prescribed for the purposes of section 16(3) of the 1993 Act(e) (exclusion from liability to pay a limited revaluation premium).
- (3) In this rule—
- “relevant year” has the meaning given by section 14(8) of the 1993 Act(f);

(a) 1971 c.56.
 (b) 1993 c.48; section 95(1) was amended by the Pensions Act 1995 (c.26), Schedule 6, paragraph 3.
 (c) 1975 c.60.
 (d) 1992 c.5.
 (e) Section 16(3) was amended by the Pensions Act 1995, Schedule 5, paragraph 28.
 (f) Section 14(8) was amended by the Pensions Act 1995, Schedule 5, paragraph 27.

“prescribed percentage” has the meaning given in regulation 62 of the Occupational Pension Schemes (Contracting-out) Regulations 1996(a).

... [Rules J3, J4 and J5 omitted].

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

Review of ill-health and certain deferred pensions

K1.—(1) So long as a person—

- (a) has been in receipt of an ill-health pension for less than 10 years, and
- (b) is under the age of 60,

the fire and rescue authority shall consider, at such intervals as they think proper, whether he has become capable of carrying out any duty appropriate to the role from which he retired on grounds of ill-health.

(2) So long as a person—

- (a) has been in receipt of a higher tier ill-health pension for less than 10 years; and
- (b) is under the age of 60,

the authority shall also consider, at such intervals as they think proper, whether he has become capable of undertaking regular employment.

(3) So long as a person—

- (a) is in receipt of payments in respect of a deferred pension under rule B5; and
- (b) is under the age of 60,

the authority shall also consider, at such intervals as they think proper, whether he has become capable—

- (i) of carrying out any duty appropriate to the role from which he retired on grounds of ill-health; or
- (ii) of undertaking regular employment.

(4) In this Part, “regular employment” means employment for at least 30 hours a week on average over a period of 12 consecutive months beginning with the date on which the issue of his capacity for undertaking employment arises.

Consequences of review

K1A.—(1) If, on such consideration as is mentioned in rule K1(2), it is found that a person has become capable of undertaking regular employment, the authority shall immediately terminate his higher tier ill-health pension.

(2) A lower tier ill-health pension shall continue to be paid to a person whose higher tier ill-health pension is terminated as mentioned in paragraph (1) unless—

- (a) on such consideration as is mentioned in rule K1, it is found that he has become capable of performing the duties appropriate to the role from which he retired on grounds of ill-health; and
- (b) the authority make him an offer of employment in that role (“a paragraph (2)(b) offer”).

(3) Entitlement to a lower tier ill-health pension shall cease, with immediate effect, where a person accepts or declines a paragraph (2)(b) offer.

(a) S.I. 1996/1172.

(4) A person who declines a paragraph (2)(b) offer shall then become entitled to a deferred pension under rule B5.

... [Rule K2 omitted]

Reduction of award in case of default

K3.—(1) Subject to paragraph (2), where a person—

- (a) is permanently disabled, and
- (b) has brought about or contributed to his infirmity by his own default,

the fire and rescue authority may reduce any ill-health ... [words omitted] award payable to him by them to not less than half its full amount.

(2) Where—

- (a) a pension has been reduced under paragraph (1), and
- (b) when the person attains the age of 60 the amount of the reduced pension is less than that of the notional deferred pension,

the amount of the reduced pension shall be increased to that of the notional deferred pension.

(3) The notional deferred pension is the deferred pension that would have been payable if the person had become entitled to one on the date of his ceasing to serve.

Withdrawal of pension during service as regular firefighter

K4. The fire and rescue authority by whom a pension is payable may, in their discretion, withdraw the whole or any part of the pension, except a pension under Part C (awards on death – spouses and civil partners), for any period during which the person entitled to it is employed as a regular firefighter by any fire and rescue authority.

Withdrawal of pension on conviction of certain offences

K5.—(1) Subject to paragraph (4), in the circumstances specified in paragraph (2) the fire and rescue authority by whom a pension is payable may withdraw the pension in whole or in part and permanently or temporarily as they may specify.

(2) The circumstances are—

- (a) that the person entitled to the pension (“the pensioner”) has been convicted of an offence falling within paragraph (3), and in the case of a pension under Part C that the offence was committed after the death on which the pensioner became entitled to it, or
- (b) that the pensioner has been convicted of an offence committed in connection with his service as an employee of a fire and rescue authority which is certified by the Secretary of State either to have been gravely injurious to the interests of the State or to be liable to lead to serious loss of confidence in the public service.

(3) The offences mentioned in paragraph (2)(a) are—

- (a) an offence of treason, and
- (b) one or more offences under the Official Secrets Acts 1911 to 1989^(a) for which the pensioner has been sentenced on the same occasion to a term of imprisonment of, or to two or more consecutive terms amounting in the aggregate to, at least 10 years.

(4) In determining whether the withdrawal of a pension ... [words omitted] should—

- (a) be permanent or temporary, and
- (b) affect the pension in whole or in part,

the fire and rescue authority may make different determinations in respect of the secured and unsecured portions of the pension; but the secured portion may not be withdrawn permanently and may only be

(a) 1911 c.28, 1920 c.75, 1939 c.121, 1989 c.6.

withdrawn temporarily for a period ending before the pensioner attains state pensionable age or one during which he is imprisoned or otherwise detained in legal custody.

(5) The fire and rescue authority may, to such extent as they at any time in their discretion think fit—

- (a) apply for the benefit of any dependant of the pensioner's, or
- (b) restore to the pensioner,

so much of any pension as has been withdrawn under this rule.

PART L

PAYMENT OF AWARDS AND FINANCIAL PROVISIONS

Authorities responsible for payment of awards

L1.—(1) An award payable to or in respect of a person by reason of his having been employed as a regular firefighter is payable by the fire and rescue authority by whom he was last so employed or, where his employment ceased before 1st October 2004, by the fire and rescue authority which inherited the liabilities of the fire authority which last employed him.

... [paragraph (2) omitted]

(3) An award payable to or in respect of a pension credit member under Part IA, and any sum paid in commutation of such an award, is payable by the relevant fire and rescue authority .

(4) In this Scheme “the relevant fire and rescue authority”, in relation to a pension credit member, means—

- (a) the fire and rescue authority who employ the pension debit member from whose rights the pension credit member's pension is derived at the time when the pension sharing order takes effect, or
- (b) if he is not then employed by a fire and rescue authority, the fire and rescue authority by whom he was last employed or, where his employment ceased before 1st October 2004, the fire and rescue authority which inherited the liabilities of the fire authority which last employed him.

... [paragraphs (5) and (6) omitted]

... [Rule L2 omitted]

Payment of awards

L3.—(1) While a pension or allowance is payable—

- (a) it is payable in respect of each week, and
- (b) the fire and rescue authority shall discharge their liability in respect of it by making payments in advance at such reasonable intervals as they may determine,

but payment may be delayed to the extent necessary for determining any question as to the liability of the authority.

(2) Where a person dies after receiving a payment in advance in respect of a pension or allowance, no claim for repayment shall be made on the ground that the payment or any part of it is referable to a period after his death.

(3) Where, after receiving a payment in advance in respect of a pension under Part C, a surviving spouse or civil partner marries, remarries, forms a civil partnership or a subsequent civil partnership, no claim for repayment shall be made on the ground that the payment or any part of it is referable to a period after the marriage took place or, as the case may be, the civil partnership was

(4) Subject to paragraphs (5) to (7), pensions under Part C and allowances under Part D (“survivors’ benefits”) are payable from the date of the death.

(5) Subject to paragraphs (6) and (7), in the case of a posthumous child any allowance under Part D is payable from the date of his birth.

- (6) Where the deceased—
 - (a) was in receipt of a pension, and
 - (b) died during a period in respect of which he had already received it,
 no survivors' benefits are payable before the end of that period.

(7) Where the deceased received a gratuity, ..[words omitted] survivors' benefits are payable from the first anniversary of his death or such earlier date as the fire and rescue authority, in the circumstances of the case, think fit.

- (8) A gratuity shall be paid in one sum as soon as the entitlement to it arises, except that—
 - (a) payment may be delayed to the extent necessary for determining any question as to the liability of the fire and rescue authority , and
 - (b) if the authority are satisfied that it would be to the advantage of the person entitled, they may pay a gratuity in instalments of such reasonable amounts and over such reasonable period as they think fit.

(9) Where a person is entitled under rule B6 to the repayment of his aggregate pension contributions, the fire and rescue authority are not obliged to make payment—

- (a) until the expiration of a year from the date of his retirement, or
- (b) until he requests payment,

whichever is the earlier.

Prevention of duplication

L4.—(1) This rule applies where a person is entitled in respect of any particular period to two or more pensions or allowances under this Scheme or the Compensation Scheme.

- (2) A pension payable—
 - (a) under rule B9 to the beneficiary of an allocation, or
 - (b) under rule J1 (guaranteed minimum pensions), or

.....

...[sub-paragraph (d) omitted]

- (e) under rule IA1 (pension credit member's entitlement to pension),
- is not a pension for the purposes of this rule.

(3) Subject to paragraph (4) and rule L4B, where this rule applies only one of the pensions or allowances shall be paid in respect of the period in question; if they are for the time being unequal in amount, the one to be paid is the largest of them.

- (4) For the purposes of this rule, where a person is entitled—
 - (a) under the Compensation Scheme to an injury pension and also under rule B1, B2, B3 or B5 to an ordinary, short service, ill-health or deferred pension, or
 - (b) to a pension in respect of employment with a fire and rescue authority and also to a pension as the surviving spouse or civil partner of an employee of a fire and rescue authority , or
 - (c) to pensions as the surviving child of both parents who were employed by a fire and rescue authority,

those pensions shall be treated as one.

... [paragraph (5) omitted]

... [Rules L4A and L4B omitted]

Payment of awards-supplementary

L5.—(1) Any sum payable to a minor in respect of an award may, if the fire and rescue authority think fit, be paid by them to such other person as they may determine, who shall, in accordance with any directions given by the authority, apply it for the minor's benefit.

(2) If it appears to the fire and rescue authority that a person entitled to payment of an award is, by reason of mental disorder or otherwise, incapable of managing his affairs—

- (a) they may in their discretion pay the award or any part of it to a person having the care of the person entitled, or such other person as they may determine, and
- (b) insofar as they do not pay the award in that manner, they may apply it in such manner as they think fit for the benefit of the person entitled or his dependants.

(3) On the death of a person to whom there was due in respect of an award a sum not exceeding the amount specified in any order for the time being in force under section 6 of the Administration of Estates (Small Payments) Act 1965(a) and apply in relation to the death, the fire and rescue authority may, as they think fit, without requiring the production of probate or any other proof of title—

- (a) where only one person appears to be beneficially entitled to the personal estate of the deceased, pay the sum to that person, or
- (b) in any other case, either pay the sum to one of the persons appearing to be so entitled or distribute it among all or any of them in such proportions as the authority may determine.

(4) An assignment of or charge on an award is void to the extent that—

- (a) it is in favour of a person other than a dependant of the person entitled to the award, or
- (b) it relates to a sum due in respect of the secured portion of an ordinary, short service, ill- health or deferred pension for a period beyond state pensionable age.

(5) On the bankruptcy of a person entitled to an award the award does not pass to any trustee or other person acting on behalf of the creditors.

(6) Subject to paragraphs (7) to (9), where as a result of fraud, theft or negligence on the part of a regular firefighter in connection with his employment there has been a loss to the funds of a fire and rescue authority, the authority may withhold all or part of any sums becoming due to him from the authority in respect of a pension.

(7) The total amount withheld under paragraph (6) must not exceed the amount of the loss; and in the event of any dispute as to the amount of the loss nothing may be withheld unless the loss has become recoverable from the person entitled to the pension under the order of a competent court.

(8) There shall not in any case be withheld—

- (a) where a sum is due in respect of a period beyond state pensionable age, any amount in respect of the secured portion of an ordinary, short service or ill-health pension, or
- (b) any part of a sum due that is not attributable to service as an employee of a fire and rescue authority.

(9) The fire and rescue authority shall provide the person entitled to the award with a certificate showing the amount withheld.

(10) In this rule a reference to an award is a reference to a pension, allowance, gratuity or other award under this Scheme.

(11) In the application of this rule to Scotland—

- (a) the reference in paragraph (1) to a minor shall be construed as including a reference to a pupil, and
- (b) the references in paragraph (3) to probate and to personal estate shall be construed as references to confirmation and to movable estate respectively.

(a) 1965 c.32.

PART LA

FIREFIGHTERS' PENSION FUND

Establishment, maintenance and operation of Firefighters' Pension Fund, etc

LA1.—(1) For the purposes of this Scheme, and in connection with rights acquired and liabilities incurred under the 1973 Scheme or previous Firemen's Pension Schemes and transferred to a fire and rescue authority, each fire and rescue authority shall establish and maintain, in accordance with proper practices^(a), a pension fund, which shall be known as their Firefighters' Pension Fund (in this Part referred to as the FPF).

(2) Without prejudice to the generality of paragraph (1), there shall be credited to the FPF or, where a transfer is made to the FPF from any other fund maintained by the authority, credited to the FPF and debited to that other fund—

- (a) sums receivable from firefighters in respect of periods treated as reckonable by virtue of paragraphs (3) or (5) of rule F2 (current service);
- (b) sums receivable under rule F7 (receipt of transfer value);
- (c) sums receivable from Scottish or Welsh fire and rescue authorities under provisions of the Firefighters' Pension Scheme as it has effect in Scotland or the Firefighters' (Wales) Pension Scheme equivalent to rule F8 (transfer payments between fire and rescue authorities); and
- (d) the amount of the authority's annual contributions under paragraph (3) of rule G2 (pension contributions).

(3) Without prejudice to the generality of paragraph (1), there shall be payable out of the FPF or, if a transfer is made from the FPF to any other fund maintained by the authority, debited to the FPF and credited to that other fund—

- (a) sums payable under rule B6(3) (aggregate of employer's contributions paid under rule G2(3));
- (b) awards payable under any provision of this Scheme (including the commuted portion of a pension to which rule B7 (commutation: general provision) applies);
- (c) sums payable under rule F8 (transfer payments to Scottish and Welsh fire and rescue authorities);
- (d) sums payable under rule F9 (payment of transfer values) by way of transfer values or cash or part cash equivalents

(sub-paragraph (e) omitted)

(4) Every amount paid or repaid to or by an authority under this Part shall be credited or, as the case may be, debited, to their FPF.

(5) In this Part—

- (a) references to the total amount payable out of an authority's FPF do not include references to any amount which the Secretary of State requires the authority to pay to him under any of rules LA5 to LA8; and
- (b) references to the total amount credited to the authority's FPF do not include references to any amount which the Secretary of State pays to the authority for crediting to their FPF under any of rules LA5 to LA8.

Special payments and transfers into Firefighters' Pension Fund

LA2.—(1) Each fire and rescue authority shall make transfers into their FPF in accordance with paragraphs (2) to (8).

(a) See section 21 of the Local Government Act 2003 (c.26) and, in particular, subsection (4)(e).

(2) In respect of each firefighter employed by the authority who retires on or after 1st April 2005 and before 1st April 2006 with an entitlement to immediate payment of an ill-health award under rule B3 (ill-health award), the authority shall, as soon as reasonably practicable after the date on which the Firefighters' Pension Scheme (Amendment) (England) Order 2006 comes into force, transfer into the FPF an amount equal to that firefighter's average pensionable pay.

(3) In respect of each firefighter employed by the authority who retires on or after 1st April 2006 with an entitlement to immediate payment of a higher tier ill-health award under rule B3, the authority shall transfer into the FPF such amount as shall be determined and notified to them by the Secretary of State as the higher tier ill-health charge applicable in respect of that pension.

(4) In respect of each firefighter employed by the authority who retires on or after 1st April 2006—

- (a) with an entitlement to immediate payment of a lower tier ill-health award under rule B3 (ill-health awards); and
- (b) with no entitlement to a higher tier ill-health award,

the authority shall transfer into the FPF such amount as shall be determined and notified to them by the Secretary of State as the lower tier ill-health charge applicable in respect of that pension.

(5) The amount to be transferred under paragraph (3) or (4) shall be transferred in three equal instalments.

(6) The first instalment shall be transferred—

- (a) on the date on which the employee retires; or
- (b) if the employee retired before the date on which the Firefighters' Pension Scheme (Amendment) (England) Order 2006 comes into force, as soon as reasonably practicable after the date on which it comes into force.

(7) The second instalment shall be transferred on 1st April in the financial year that follows the financial year in which the first instalment was transferred.

(8) The third instalment shall be transferred on 1st April in the financial year that follows the financial year in which the second instalment was transferred.

Transfer from Firefighters' Pension Fund

LA3.—(1) Where, in consequence of a review under rule K1 (review of ill-health and certain deferred pensions)—

- (a) a higher tier ill-health pension is cancelled before all the instalments of the higher tier ill-health charge in respect of that pension have been transferred in accordance with rule LA2; and
- (b) a lower tier ill-health pension continues to be paid,

the amount referred to in paragraph (2) shall be transferred from the FPF to any other fund maintained by the authority.

(2) The amount is an amount equal to the difference between—

- (a) the aggregate of such instalments of the higher tier ill-health charge as have been transferred in accordance with rule LA2; and
- (b) the aggregate amount that would have been transferred if—
 - (i) the lower tier ill-health charge had always applied in respect of the pension, and
 - (ii) instalments of that charge had been transferred on the dates on which instalments of the higher tier ill-health charge were transferred.

(3) For the purposes of ascertaining the amount to be transferred in accordance with paragraph (2), the fire and rescue authority shall request the Secretary of State to determine the amount of the notional lower tier ill-health charge in respect of the pension concerned.

(4) Where a person declines an offer of employment under paragraph (2)(b) of rule K1A (consequences of review) and does not again take up employment in the fire and rescue service in England—

- (a) rule LA2(3) or (4) (as the case may be) shall be disregarded in his case (to the extent that it remains to be complied with); and
 - (b) the authority which made the offer—
 - (i) shall not make any transfer into the FPF in respect of him as regards any time after the date on which they receive notice that the offer has been rejected; and
 - (ii) shall transfer from the FPF to any other fund maintained by them an amount equal to the aggregate of the instalments that have been transferred to the FPF in respect of the pension that has been terminated.
- (5) Where—
- (a) a higher tier ill-health pension or a lower tier ill-health pension is wholly and permanently withdrawn under rule K5 (withdrawal of pension on conviction of certain offences); and
 - (b) the former recipient of that pension does not again take up employment in the fire and rescue service in England,

rule LA2(3) or (4) (as the case may be) shall be disregarded in his case (to the extent that it remains to be complied with); and the authority shall transfer from the FPF to any other fund maintained by them an amount equal to the aggregate of the instalments that have been transferred to the FPF in respect of the pension that has been terminated.

Excess amounts – information

LA4.—(1) Beginning with the financial year ending on 31st March 2007, a fire and rescue authority shall, in relation to each financial year, send the following information in writing to the Secretary of State—

- (a) the total amount that the authority estimate will be payable out of their FPF in that year;
- (b) the total amount that the authority estimate will be credited to their FPF in that year;
- (c) the authority’s un-audited statement of accounts for that year, prepared and approved in accordance with regulations under section 27 of the Audit Commission Act 1998^(a);
- (d) the authority’s statement of accounts for that year, as it is after the authority’s auditor issues his certificate and opinion, including or together with that certificate and opinion;
- (e) the total amount payable out of the authority’s FPF in that year; and
- (f) the total amount credited to the authority’s FPF in that year.

(2) In relation to the financial year ending on 31st March 2007, the authority shall send the information referred to in sub-paragraphs (a) and (b) of paragraph (1) to the Secretary of State in September 2006 (“the initial estimate”).

(3) In relation to each financial year ending on or after 31st March 2008, the authority—

- (a) shall send the information referred to in sub-paragraphs (a) and (b) of paragraph (1) to the Secretary of State in September in the financial year before the year in question (“the estimate”); and
- (b) if the authority revise the information referred to in those sub-paragraphs after they send the estimate to the Secretary of State, may send that revised information to the Secretary of State in September during the year in question (“the revised estimate”).

(4) The authority shall send the information referred to in sub-paragraphs (c), (e) and (f) of paragraph (1) to the Secretary of State in July in the financial year following the year in question (“the un-audited information”).

(5) The authority shall send to the Secretary of State as soon as reasonably practicable after the authority’s auditor issues his certificate and opinion on the authority’s accounts for the year in question (“the audited information”)—

(a) 1998 c. 18. See regulations 7 and 10 of the Accounts and Audit Regulations 2003 (S.I. 2003/533, amended by 2004/556 and 2006/564).

- (a) the information referred to in sub-paragraph (d) of paragraph (1); and
 - (b) if the authority revise the information referred to in sub-paragraphs (e) and (f) of paragraph (1) after they have sent the un-audited information to the Secretary of State, that information as revised.
- (6) For the purposes of this rule, the auditor issues his certificate and opinion when, in accordance with section 9 of the Audit Commission Act 1998(a)—
- (a) he enters on the authority's statement of accounts for the relevant year—
 - (i) a certificate that he has completed the audit in accordance with that Act, and
 - (ii) his opinion on the statement; or
 - (b) where he makes a report to the authority under section 8 of that Act at the conclusion of the audit, he includes the certificate and opinion referred to in sub-paragraph (a) in that report instead of making an entry on the statement.

Excess amounts – estimated deficits

LA5.—(1) Where, having taken into account the initial estimate or, as the case may be, the estimate, and any other relevant information available to him, it appears to the Secretary of State that the total amount likely to be payable out of a fire and rescue authority's FPF in the year in question will exceed the total amount likely to be credited to the authority's FPF in that year, he shall pay to the authority an amount equal to 80 per cent of the likely deficit.

(2) Subject to paragraph (3), where, having taken into account any revised estimate and any other relevant information available to him, it appears to the Secretary of State that—

- (a) the total amount likely to be payable out of the authority's FPF in the year in question will exceed the total amount likely to be credited to the authority's FPF in that year; and
- (b) 80 per cent of the likely deficit is more than—
 - (i) the amount paid or payable by him to the authority by virtue of paragraph (1) in relation to the relevant year; or
 - (ii) where no such amount was paid or payable by him, zero,

he may pay to the authority such amount as he thinks fit.

(3) The aggregate of the amounts paid to an authority under paragraphs (1) and (2) in relation to a particular year shall not exceed 80 per cent of the authority's likely deficit for that year.

(4) Where the Secretary of State pays an amount to the authority under paragraph (2), any amount paid or payable to him in relation to the year in question under rule LA6(1) shall not be payable and, if already paid, the Secretary of State shall repay it to the authority.

(5) An amount payable to the authority under paragraph (1) shall be paid—

- (a) where the year in question ends on 31st March 2007, on or before that date;
- (b) where the year in question ends on or after 31st March 2008, in July in the year in question.

(6) Any amount payable or repayable by the Secretary of State to an authority under paragraph (2) or (4) shall be paid or repaid before the end of the year in question.

Excess amounts – estimated surpluses

LA6.—(1) Where, having taken into account the initial estimate or, as the case may be, the estimate, and any other relevant information available to him, it appears to the Secretary of State that the total amount likely to be credited to a fire and rescue authority's FPF in the year in question will exceed the total amount likely to be payable out of their FPF in that year, he shall require the authority to pay to him an amount equal to 80 per cent of the likely surplus.

(2) Subject to paragraph (3), where, having taken into account any revised estimate and any other relevant information available to him, it appears to the Secretary of State that—

(a) 1998 c. 18.

- (a) the total amount likely to be credited to the authority's FPF in the year in question will exceed the total amount likely to be payable out of the authority's FPF in that year; and
- (b) 80 per cent of the difference between those total amounts is more than—
 - (i) the amount paid or payable by the authority to him under paragraph (1) in relation to the year in question; or
 - (ii) where no such amount was paid or payable by the authority, zero,

he may require the authority to pay to him such amount as he may by notice specify.

(3) The aggregate of the amounts paid to the Secretary of State under paragraphs (1) and (2) in relation to a particular year shall not exceed 80 per cent of the authority's likely surplus for that year.

(4) Where the Secretary of State requires the authority to pay an amount to him by virtue of paragraph (2), any amount paid or payable by the Secretary of State to the authority under rule LA5(1), shall not be payable and, if already paid, the authority shall repay it to the Secretary of State.

(5) The Secretary of State shall give to the authority, on or before 3rd March in the year in question, written notice of the amount of any payment that he requires the authority to make under paragraph (1) or (2).

(6) An amount payable or repayable by the authority to the Secretary of State under paragraph (1), (2) or (4) shall be paid or repaid in March in the year in question.

Excess amounts – actual deficits

LA7.—(1) Where, having taken into account the un-audited information and any other relevant information available to him, it appears to the Secretary of State that the total amount likely to be payable out of a fire and rescue authority's FPF in the year in question exceeds the total amount likely to be credited to the authority's FPF in that year—

- (a) where the likely deficit ("the un-audited deficit") exceeds the total of any amounts paid or payable to the authority in relation to that year under rule LA5(1) or (2) ("the LA5 total"), he shall pay to the authority the amount of the un-audited deficit less the LA5 total;
- (b) where the un-audited deficit is less than the LA5 total, the amount of the LA5 total less the un-audited deficit shall not be payable under rule LA5(1) or (2) and, if already paid, the authority shall repay that amount to the Secretary of State;
- (c) where no amount was paid or payable by him to the authority in relation to the year in question under rule LA5(1) or (2), he shall pay to the authority the amount of the un-audited deficit; and
- (d) any amount paid or payable to him in relation to that year under rule LA6(1) or (2), shall not be payable and, if already paid, the Secretary of State shall repay it to the authority.

(2) Where, having taken into account the audited information and any other relevant information available to him, it appears to the Secretary of State that the total amount [payable] out of a fire and rescue authority's FPF in the year in question exceeds the total amount credited to their FPF in that year—

- (a) where the difference between those total amounts ("the audited deficit") exceeds the total of any amounts paid (but not repaid or repayable) or payable to the authority in relation to that year under paragraph (1)(a) or (c) or rule LA5(1) or (2) ("the un-audited total"), he shall pay to the authority the amount of the audited deficit less the un-audited total;
- (b) where the audited deficit is less than the un-audited total, the amount of the un-audited total less the audited deficit shall not be payable under paragraph (1)(a) or (c) or rule LA5(1) or (2) and, if already paid, the authority shall repay it to the Secretary of State;
- (c) where no amount was paid or payable by him to the authority in relation to the year in question under paragraph (1)(a) or (c) or rule LA5(1) or (2), he shall pay to the authority the amount of the audited deficit; and

- (d) any amount paid or payable to him in relation to the year in question under rule LA6(1) or (2) or rule LA8(1)(a) or (c), shall not be payable and, if already paid, the Secretary of State shall repay it to the authority.

(3) An amount payable or repayable by the Secretary of State to an authority, or vice versa, under paragraph (1), shall be paid or repaid in July in the financial year following the year in question (“the second year”).

(4) An amount payable or repayable by the Secretary of State to an authority, or vice versa, under paragraph (2), shall be paid or repaid in July in the financial year following the second year.

Excess amounts – actual surpluses

LA8.—(1) Where, having taken into account the un-audited information and any other relevant information available to him, it appears to the Secretary of State that the total amount credited to a fire and rescue authority’s FPF in the year in question exceeds the total amount paid out of the authority’s FPF in that year—

- (a) where the difference between those total amounts (“the un-audited surplus”) exceeds the total of any amounts paid or payable to him by the authority in relation to that year under rule LA6(1) or (2) (“the LA6 total”), he shall require the authority to pay to him the amount of the un-audited surplus less the LA6 total;
- (b) where the un-audited surplus is less than the LA6 total, the amount of the LA6 total less the un-audited surplus shall not be payable under rule LA6(1) or (2) and, if already paid, the Secretary of State shall repay it to the authority;
- (c) where no amount was paid or payable to him by the authority in relation to the year in question under rule LA6(1) or (2), he shall require the authority to pay to him the amount of the un-audited surplus; and
- (d) any amount paid or payable by him to the authority in relation to that year under rule LA5(1) or (2), shall not be payable and, if already paid, the authority shall repay it to the Secretary of State.

(2) Where, having taken into account the audited information and any other relevant information available to him, it appears to the Secretary of State that the total amount credited to a fire and rescue authority’s FPF in the year in question exceeds the total amount payable out of the authority’s FPF in that year—

- (a) where the difference between those total amounts (“the audited surplus”) exceeds the total of any amounts paid (but not repaid or repayable) or payable to him by the authority in relation to that year under paragraph (1)(a) or (c) or rule LA6(1) or (2) (“the un-audited LA6 total”), he shall require the authority to pay to him out of their FPF the amount of the audited surplus less the un-audited LA6 total;
- (b) where the audited surplus is less than the un-audited LA6 total, the amount of the un-audited LA6 total less the audited surplus shall not be payable under paragraph (1)(a) or (c) or rule LA6(1) or (2) and, if already paid, the Secretary of State shall repay it to the authority;
- (c) where no amount was paid or payable to him by the authority in relation to the year in question under paragraph (1)(a) or (c) or rule LA6(1) or (2), he shall require the authority to pay to him the amount of the audited surplus; and
- (d) any amount paid or payable by him to the authority in relation to that year under rule LA5(1) or (2) or rule LA7(1)(a) or (c) shall not be payable and, if already paid, the authority shall repay it to the Secretary of State.

(3) The Secretary of State shall give to the authority, on or before 3rd July in the financial year after the year in question (“the second year”), written notice of the amount of the payment that he requires the authority to make under paragraph (1)(a) or (c).

(4) An amount payable or repayable by the authority to the Secretary of State, or vice versa, under paragraph (1), shall be paid or repaid in July in the second year.

(5) The Secretary of State shall give to the authority, on or before 3rd July in the financial year that is the second financial year after the year in question (“the third year”), written notice

of the amount of any payment that he requires the authority to make under paragraph (2)(a) or (c).

(6) An amount payable or repayable by the authority to the Secretary of State, or vice versa, by virtue of paragraph (2), shall be paid or repaid in July in the third year.

Duty to provide information

LA9.—(1) A fire and rescue authority shall provide the Secretary of State with such information relevant to the exercise of his functions under this Part as he may, by written notice to the authority, require.

(2) An authority shall respond to a request under paragraph (1) within such period as the Secretary of State shall specify in his notice under that paragraph, or such longer period as he may in any particular case allow.

Duty to have regard to guidance

LA10. A fire and rescue authority shall have regard to such guidance as may be issued by the Secretary of State from time to time for the purposes of this Part.

PART M SUPPLEMENTAL PROVISION

Transitional and other matters

M1.—(1) Schedule 12 has effect with respect to transitional and other matters in connection with the coming into force of this Scheme.

(2) Nothing in Schedule 12 is intended to affect the general operation of section 16 of the Interpretation Act 1978(a) (general savings to be implied on a revocation).

SCHEDULE 1 INTERPRETATION

Rule A2

PART I GLOSSARY OF EXPRESSIONS

<i>Expression</i>	<i>Meaning</i>
“The 1993 Act”	The Pension Schemes Act 1993(b)
“The 1999 Act”	The Welfare Reform and Pensions Act 1999(c)
“Adoption leave”	Leave under sections 75A and 75B of the Employment Rights Act 1996(d) (and “ordinary adoption leave” and “additional adoption leave” shall be construed accordingly).
“Aggregate pension contributions”	Construe in accordance with rule A8.
“Amount”	In relation to a pension or allowance, its annual amount.
“Appointed day”	In relation to England and Wales, 1st April 1948; in relation to Scotland, 16th May 1948.
“Approved scheme”	Superannuation arrangements which— (a) are contained in a public general Act of Parliament or were made

(a) 1978 c.30.

(b) 1993 c.48.

(c) 1999 c. 30.

(d) 1996 c.18; sections 75A and 75B were inserted by section 3 of the Employment Act 2002.

under such an Act by a Minister of the Crown, or
 (b) are contained in Northern Ireland legislation within the meaning of section 24 of the Interpretation Act 1978 or were made under such legislation by a Minister of the Crown (including a Northern Ireland Minister) or by a Northern Ireland ministry, department or head of department, or
 (c) are approved under Chapter I of Part XIV of the Income and Corporation Taxes Act 1988(a) and do not fall within section 591(2)(h) of that Act, or
 (d) provide for the payment of transfer values in respect of persons who become regular firefighters calculated in like manner as under arrangements falling within (a) above.

<p>“Award” “Brigade” “Cash equivalent”, “part cash equivalent”</p>	<p>A pension, allowance, gratuity or repayment of pension contributions. A fire brigade maintained under the principal Act. The first expression means a cash equivalent mentioned in paragraph 12(1) of Schedule 1A to the Social Security Pensions Act 1975(b); the second expression means the cash equivalent of any part of the benefits mentioned in that sub-paragraph which is prescribed under sub-paragraph (2A) (continuation in employment after termination of pensionable service).</p>
<p>“Child”</p>	<p>In relation to a person who has died, a legitimate or illegitimate child, step-child or adopted child of his; any other child who was substantially dependent on him and either is related to him or is the child of his spouse or civil partner. “Parent” is to be construed accordingly.</p>
<p>“Club scheme”</p>	<p>Superannuation arrangements which fall within (a), (b) or (d) of the definition of “approved scheme”.</p>
<p>“Compensation Scheme”</p>	<p>The Firefighter’s Compensation Scheme (England) 2006, set out in Schedule 1 to the Firefighters’ Compensation Scheme (England) Order 2006.</p>
<p>“Disabled”, “disablement”, “permanently disabled”</p>	<p>Construe in accordance with rule A10.</p>
<p>“Eligible person”</p>	<p>Construe in accordance with rule G5(2).</p>
<p>“Fire and rescue authority”</p>	<p>A fire and rescue authority under the Fire and Rescue Services Act 2004 (a)</p>
<p>“Half-rate service”</p>	<p>Construe in accordance with paragraph 1(1) of Part III of Schedule 3.</p>
<p>“Independent qualified medical practitioner”</p>	<p>A medical practitioner holding a diploma in occupational medicine or an equivalent or higher qualification issued by a competent authority in an EEA State, or being an Associate, a Member or a Fellow of the Faculty of Occupational Medicine(c) or an equivalent institution of an EEA State; and for the purposes of this definition “a competent authority” has the meaning given by the General and Specialist Medical Practice (Education, Training and Qualifications) Order 2003.</p>
<p>“Injury”</p>	<p>Includes disease.</p>
<p>“Maternity leave”</p>	<p>In respect of any period prior to 22nd August 1996, leave under section 33 of the Employment Protection (Consolidation) Act 1978(d) and in respect of any period on or after that date, leave under sections 71 and 73 of the Employment Rights Act 1996(e) (and “ordinary maternity leave” and “additional maternity leave” shall be construed accordingly).</p>
<p>“Mixed-rate service”</p>	<p>Construe in accordance with paragraph 1(2) of Part III of Schedule 3.</p>

(a) 1988 c.1.
 (b) 1975 c. 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.
 (a) 2004 c.21; see section 1 of the Act.
 (c) The Faculty of Occupational Medicine is a registered charity no. 1035415
 (d) 1978 c.44; section 33 was amended by section 23 of the Trade Union Reform and Employment Rights Act 1993.
 (e) 1996 c.18; sections 71 and 73 were substituted by section 7 of, and Part 1 of Schedule 4 to, the Employment Relations Act 1999 (c.26) and amended by section 17 of the Employment Act 2002 (c.22).

“Normal benefit age”	The age of 60.
“Normal pension age”	Construe in accordance with rule A13.
“1973 Scheme”	The Firemen’s Pension Scheme 1973(a).
“Paternity leave”	Leave under regulation 4 or 8 of the Paternity and Adoption Leave Regulations 2002(b).
“Pension”	A pension under this Scheme.
“Pension credit”	A credit under section 29(1)(b) of the 1999 Act, including a credit under corresponding Northern Ireland legislation.
“Pension credit benefit”	Construe in accordance with section 101B of the 1993 Act(c)
“Pension credit member”	Construe in accordance with section 124(1) of the Pensions Act 1995(d)
“Pension credit rights”	Construe in accordance with section 101B of the 1993 Act.
“Pension debit”	A debit under section 29(1)(a) of the 1999 Act.
“Pension debit member”	A person whose benefits or future benefits under this Scheme have been reduced under section 31 of the 1999 Act.
“Pensionable pay”, “average pensionable pay”	Construe in accordance with rule G1.
“Pensionable service”	Construe in accordance with rule F1.
“Pension sharing order”	An order or provision mentioned in section 28(1) of the 1999 Act.
“Personal pension scheme”	The meaning given by section 1 of the 1993 Act..
“Principal Act”	The Fire Services Act 1947(e).
<i>[Definition of “qualifying injury” omitted]</i>	
“Regular firefighter”	<p>In relation to any time before 1st March 1992, the expression means a regular fireman as defined in article 2 of the 1973 Scheme. In relation to any time after 29th February 1992 but before 13th September 2004, the expression means a whole-time member of a brigade appointed on terms under which he is or may be required to engage in fire-fighting whose appointment is not a temporary one. In relation to any time on or after 13th September 2004 and before 1st October 2004, the expression means a whole-time or part-time member of a brigade, other than a retained or volunteer member of a brigade, appointed on terms under which he is, or may be, required to engage in fire-fighting or, without a break in continuity of such an appointment, may be required to perform other duties as appropriate to his role as a firefighter (other than, or in addition to, engaging in firefighting) and whose appointment is not a temporary one.</p> <p>In relation to any time on or after 1st October 2004, the expression means a person who is employed—</p> <p>(a) by a fire and rescue authority as a firefighter (whether whole-time or part-time), other than as a retained or volunteer firefighter, and</p> <p>(b) on terms under which he is, or may be, required to engage in fire-fighting or, without a break in continuity of such employment, may be required to perform other duties appropriate to his role as a firefighter (whether instead of, or in addition to, engaging in fire-fighting) and whose employment is not temporary.</p>
“Relevant fire and rescue authority”	Construe in accordance with rule L1(4).
“Relevant service in the armed forces”	Construe in accordance with rule A12.
“Retained firefighter” and “volunteer firefighter”	<p>A person employed by an authority—</p> <p>(a) as a firefighter, but not as a regular firefighter,</p> <p>(b) on terms under which he is, or may be, required to engage in fire-</p>

(a) Brought into operation by S.I. 1973/966; amended by the other instruments listed in Part I of Schedule 1 to the Firemen's Pension Scheme Order 1992.

(b) S.I. 2002/2788.

(c) Section 101B is inserted by section 37 of the Welfare Reform and Pensions Act 1999.

(d) 1995 c.26. The definition of “pension credit member” is inserted by paragraph 61(3) of Schedule 12 to the Welfare Reform and Pensions Act 1999.

(e) 1947 c.41.

	fighting or, without a break in continuity of such employment, may be required to perform other duties appropriate to his role as a firefighter (whether instead of, or in addition to, engaging in fire-fighting), (c) otherwise than in a temporary capacity, and (d) who is obliged to attend at such times as the officer in charge considers necessary, and in accordance with the orders that he receives. Construe in accordance with rule A16.
“Retire”	
“Scheme managers”	In relation to a scheme falling within (a) or (b) of the definition of “approved scheme”, the Minister of the Crown or local or other authority or other person administering the scheme; in relation to any other scheme, the person responsible for its management.
“Serviceman”	The meaning given in rule I1(1).
“Service pension”	An armed forces pension or allowance payable in pursuance of a Royal Warrant or other instrument.
“Surviving spouse”	A widow or widower.
“Tax year”	The 12 months beginning with 6th April in any year.
“War service”	Construe in accordance with paragraph 1 of Part II of Schedule 7.
“Weekly rate”	The weekly rate of a pension is its amount divided by 52 1/6th.

PART II
EXPRESSIONS RELATED TO NATIONAL INSURANCE AND SOCIAL SECURITY ACTS

1. In this Scheme “employed contributor’s employment”, “graduated contribution”, “graduated retirement benefit”, “non-participating employment”, and “payment in lieu of contributions” have the meanings which they had for the purposes of the National Insurance Act 1965(**a**) immediately before its repeal by the Social Security (Consequential Provisions) Act 1975(**b**).

2. In this Scheme “state pensionable age” means pensionable age as determined in accordance with the rules in paragraph 1 of Schedule 4 to the Pensions Act 1995(**c**).

3. In this Scheme any reference to a participating period of relevant employment is a reference to a period of employed contributor’s employment after 5th April 1961 and before state pensionable age other than—

- (a) service in the armed forces, and
- (b) non-participating employment at the end of which no payment in lieu of contributions fell to be made,

and for the purposes of this paragraph a period of employed contributor’s employment or of non-participating employment shall be treated as having continued during periods of holiday and temporary incapacity for work and similar temporary interruptions.

4.—(1) In this Scheme—

- (a) any reference to the secured portion of a pension is a reference to the portion of it which equals the assumed graduated retirement benefit, and
- (b) any reference to the unsecured portion of a pension shall be construed accordingly.

(2) The assumed graduated retirement benefit is the graduated retirement benefit that would be payable to the pensioner on the assumption that—

- (a) he retired from regular employment on attaining state pensionable age,
- (b) a payment in lieu of contributions was made in respect of the whole of any period of non-participating employment by virtue of which he is entitled to reckon pensionable service for the purposes of the pension, and
- (c) the period was one at the end of which no payment in lieu of contributions in fact fell to be made,

and for the purposes of this paragraph a period of non-participating employment shall be treated as having continued during periods of holiday and temporary incapacity for work and similar temporary interruptions.

5. For the purposes of this Scheme the annual rate of graduated retirement benefit shall be calculated as if there were 52 1/6th weeks in a year.

6. In this Scheme “contracted-out employment”, “contracted-out scheme”, “earnings factors”, “guaranteed minimum”, “guaranteed minimum pension” and “contributions equivalent premium” have the meanings which they have for the purposes of the Social Security Pensions Act 1975.

7. In this Scheme any reference to a case in which a contributions equivalent premium has been paid includes a reference to a case in which such a premium is payable but has not been paid by virtue of regulations under Schedule 2 to the Social Security Pensions Act 1975 dispensing with the payment of such a premium where its amount would be inconsiderable.

(a) 1965 c.51.
(b) 1975 c. 18.
(c) 1995 c.26.

8. In this Scheme any reference to the guaranteed minimum in relation to a pension under a pension scheme at a particular time is a reference to the amount certified by the Department of Social Security as that minimum at that time.

9. In the case of a person entitled to reckon a period of pensionable service by virtue of service or employment in Northern Ireland or the Isle of Man in respect of which he was subject to superannuation arrangements, this Scheme has effect as if any reference to the National Insurance Act 1946(a), the National Insurance Act 1965 or the Social Security Pensions Act 1975 included a reference to, as the case may be—

any enactment of Tynwald, or

any enactment comprised in Northern Ireland legislation within the meaning of section 24 of the Interpretation Act 1978,

making provision for corresponding purposes.

SCHEDULE 2

Part B

PERSONAL AWARDS

PART I

ORDINARY PENSION

1. Subject to Parts VIA, VII and VIII of this Schedule, the amount of an ordinary pension is—

$$(30 \times A / 60) + (2 \times A \times B / 60)$$

where—

A is the person's average pensionable pay, and

B is the period in years (subject to a maximum of 5 years) by which his pensionable service exceeds 25 years.

PART II

SHORT SERVICE PENSION

1. Subject to Parts VIA, VII and VIII of this Schedule, the amount of a short service pension is—

$$(A \times B / 60) + (2 \times A \times C / 60)$$

where—

A is the person's average pensionable pay,

B is the period in years of his pensionable service up to 20 years, and

C is the period in years by which his pensionable service exceeds 20 years.

(a) 1946 c.67.

PART III

ILL-HEALTH PENSION

1.—(1) Paragraphs 2 to 5 have effect subject to Parts VIA, VII and VIII of this Schedule.

(2) Where the person concerned has the role of Station Manager B or a superior role, any calculation relevant for the purposes of this Part shall be made as if his normal pension age were 60.

2. Subject to paragraph 3, the amount of a lower tier ill-health pension, is an amount equal to that which the person concerned would have received if his employment had ceased in circumstances in which he would have been entitled to immediate payment of a deferred pension (calculated in accordance with Part VI of this Schedule).

3. Where the person concerned has less than 5 years' pensionable service, the amount of the lower tier ill-health pension is that found by applying the formula—

$$(A \times B) \div 60, \text{ where—}$$

A is the person's average pensionable pay; and

B is the greater of one year and the period in years of his pensionable service.

4.—(1) The amount of a person's higher tier ill-health pension is the amount determined by deducting from the amount ascertained in accordance with sub-paragraph (2) or paragraph 5, as his circumstances require, the amount of his lower-tier ill-health pension.

(2) The amount referred to in sub-paragraph (1) as to be ascertained in accordance with this sub-paragraph is—

(a) if the person concerned has at least 5 but not more than 10 years' pensionable service, the amount found by applying the formula—

$$(2 \times A \times C) \div 60, \text{ where—}$$

A is the person's average pensionable pay; and

C is the period in years of his pensionable service; or

(b) if the person concerned has more than 10 years' pensionable service, the greater of the amounts found by applying the formulae—

$$\{(20 \times A) \div 60\}; \text{ and}$$

$$\{(7 \times A \div 60) + (A \times D \div 60) + (2 \times A \times E \div 60)\}, \text{ where—}$$

A is the person's average pensionable pay;

C is the period in years of his pensionable service;

D is the period in years of his pensionable service up to and including 20 years, and

E is the period in years by which his pensionable service exceeds 20 years.

5.—(1) Where—

(a) if the person had continued to serve until he reached normal pension age, he would have become entitled to an ordinary or short service pension ("the notional retirement pension"), and

(b) the amount ascertained in accordance with paragraph 4(2) exceeds the amount of the notional retirement pension,

the amount referred to in paragraph 4(1) as to be ascertained in accordance with this paragraph is that of the notional retirement pension.

(2) The notional retirement pension is to be calculated by reference to the person's actual average pensionable pay.

... [Parts IV and V omitted]

PART VI

Rule B5

DEFERRED PENSION

1.—(1) Paragraph 2 has effect subject to Parts VIA, VII and VIII of this Schedule.

(2) In paragraph 2, A is the person’s average pensionable pay.

2.—(1) The amount of a deferred pension is the lesser of—

$$40 \times A / 60$$

and—

$$B \times C / D$$

where—

B is the amount of the person’s notional retirement pension,

C is the period in years of his pensionable service, and

D is the period in years of his notional service.

(2) A person’s notional retirement pension is—

$$(A \times E / 60) + (2 \times A \times F / 60)$$

where—

E is the period in years of his notional service up to 20 years, and

F is the period in years by which his notional service exceeds 20 years.

(3) A person’s notional service is the period in years that he would have been entitled to reckon as pensionable service if he had continued to serve until—

(a) he could retire with a maximum ordinary pension (disregarding rule B1(2)), or

(b) he reached normal pension age,

whichever is the earlier.

PART VIA

Rule B13

CALCULATION OF AWARDS FOR PART-TIME SERVICE

1. Where some or all of a person’s service, by virtue of which his pensionable service is reckonable, is part-time service, his—

(a) ordinary pension under Part I,

(b) short-service pension under Part II,

(c) ill-health pension under Part III,

... [sub-paragraphs (d) and (e) omitted]

(f) deferred pension under Part VI,

as appropriate, shall be calculated in accordance with this Part.

2.—(1) The amount of an award listed in paragraph 1 is—

$$(A \times (B + C)) \div D$$

where—

A is the amount of that award calculated under the relevant Part if the average pensionable pay was the pay the person would have received had he been a whole-time employee of a fire and rescue authority;

B is the period in years of his pensionable service as a whole-time employee of a fire and rescue authority;

C is the period in years of his pensionable service as a part-time employee of a fire and rescue authority, expressed as a fraction, where the numerator is the total number of contractual

hours during the part-time service and the denominator is the number of contractual hours for one year of whole-time service; and

D is the period in years of his pensionable service.

(2) Neither (B + C) nor D shall exceed 30 years.

PART VII

Rules B1, B2, B3 and B5

REDUCTION OF PENSION AT STATE PENSIONABLE AGE

1.—(1) Where, in respect of service as a regular firefighter before 1st April 1980, a person has paid pension contributions at a rate of 6p. a week (or 1s 2d a week) less than the appropriate percentage of his pensionable pay (“reduced contributions”), the unsecured portion of any ordinary, short service, ill-health or deferred pension payable to him shall, in respect of any period beyond state pensionable age, be reduced in accordance with this paragraph.

(2) Subject to sub-paragraphs (4) to (6), in the case of a person who elected to pay pension contributions at the lower rate under article 38 of the Firemen’s Pension Scheme 1948(a), the annual rate of the reduction is that obtained by multiplying the sum ascertained from the Table below by the length in years of the period of pensionable service in respect of which he paid reduced contributions (“the relevant period”).

TABLE

<i>Age on appointed day</i>	<i>Sum to be multiplied</i>
	£
Under 23	1.700
23	1.650
24	1.600
25	1.550
26	1.525
27	1.500
28	1.475
29	1.450
30	1.425
31	1.400
32	1.375
33	1.350
34	1.325
35	1.300
36	1.300
37	1.275
38	1.250
39	1.250
40	1.225
41	1.225
42	1.200
43	1.200
44 or over	1.175

(3) Subject to sub-paragraphs (4) to (6), in any other case the annual rate of the reduction is that obtained by multiplying £1.70 by the length in years of the relevant period.

(4) This sub-paragraph applies in the case of a person who-

- (a) before 1st April 1980 became entitled to reckon pensionable service (“the pensionable period”) by virtue of service or employment otherwise than as a regular firefighter in respect of which he was subject to superannuation arrangements (“the former service”), and

(a) See S.I. 1948/604.

- (b) was subject to the operation of any regulations made under section 69(4) of the National Insurance Act 1946(a) (“the 1946 Act”) or section 110(1) of the National Insurance Act 1965(b) or of other provisions modifying those superannuation arrangements in connection with the passing of the 1946 Act (“the modifications”), and
- (c) is entitled to reckon the pensionable period for the purposes of the pension in question.

(5) Where sub-paragraph (4) applies-

- (a) the relevant period shall be increased by the pensionable period, or where only a proportion of the former service would have been taken into account for the purposes of the modifications, by that proportion of the pensionable period, and
- (b) if the person was subject to the modifications by virtue of an election made or notice given, the Table in sub-paragraph (2) has effect with the substitution for his age on the appointed day of his age on the date on which the election or notice became effective.

(6) The annual rate of reduction of a pension under this paragraph shall not in any case exceed £51.

2.—(1) This paragraph applies in the case of a person in receipt of an ordinary, short service, ill-health or deferred pension who has a period of former service, that is to say service or employment otherwise than as a regular firefighter—

- (a) in respect of which he was subject to superannuation arrangements (“the relevant arrangements”), and
- (b) by reason of which he is entitled to reckon pensionable service for the purposes of the pension, and
- (c) the period of which includes a participating period of relevant employment (“the participating period”).

(2) Where this paragraph applies the pension shall be reduced in relation to the participating period as if—

- (a) any material provision of the relevant arrangements were, with the necessary adaptations and modifications, contained in this paragraph,
- (b) the pension were payable under the relevant arrangements, and
- (c) any other period of service or employment by reason of which he is entitled to reckon pensionable service for the purposes of the pension were a period of non-participating employment at the end of which no payment in lieu of contributions falls to be made.

(3) A material provision of the relevant arrangements is one-

- (a) which was in operation when the person left the former service, and
- (b) the effect of which is that pensions payable under the arrangements are to be reduced in connection with the operation of the National Insurance Act 1959(c) or of any provision of the National Insurance Act 1965 relating to graduated contributions or graduated retirement benefit.

(4) A fire and rescue authority, in determining any question arising under sub-paragraphs (1) to (3) relating to a particular service or employment, shall be entitled to treat as conclusive any relevant certificate issued, with the agreement of the person concerned, by his employer in that service or employment.

(5) Where for the purposes of the relevant arrangements the person was entitled to reckon service by reason of some previous service or employment, that previous service or employment shall be treated for the purposes of this paragraph as if it were part of the former service.

3.—(1) Where a person is in receipt of an ordinary, short service or ill-health pension for the purposes of which he is entitled to reckon pensionable service by virtue of a period of employment as a regular firefighter which is a participating period of relevant employment (“the participating period”), the unsecured portion of the pension shall, in respect of any period beyond state pensionable age, be reduced in accordance with this paragraph.

(a) 1946 c.67.
 (b) 1965 c.51.
 (c) 1959 c.47.

(2) The annual rate of the reduction is that of the graduated retirement benefit which would, on the assumption that the person retired from regular employment on attaining state pensionable age, be payable to him in return for a payment in lieu of contributions in respect of the whole of the participating period, whether or not such a payment was in fact made.

... [paragraph 4 omitted]

PART VIII

REDUCTION OF PENSION RELATED TO UP-RATING OF WIDOW'S PENSION

1.—(1) In this Part “pension” means an ordinary, short service, ill-health or deferred pension and “regular service” means service as a regular firefighter.

2.—(1) Subject to sub-paragraph (2), this paragraph applies in the case of a man entitled to reckon pensionable service otherwise than—

- (a) by reason of regular service after 31st March 1972, or
- (b) by reason of regular service before 1st April 1972, in respect of which he has paid pension contributions at a rate related to 6% of his pensionable pay, or
- (c) by virtue of rule F7 (receipt of transfer value).

(2) Where the man was a regular firefighter to whom article 59 or 60 of the 1973 Scheme applied (that is to say, where on 1st July 1973 either he was in regular service or, having retired after 31st March 1972, he was entitled to a pension) and he last paid pension contributions before 1st April 1972 at a rate related to 5% of his pensionable pay, this paragraph does not apply unless—

- (a) he elected or agreed, under article 59(2)(b) or (4)(a) or 60(2)(b) of the 1973 Scheme, that his pension be reduced, or
- (b) pensionable service became reckonable by him after 29th February 1992 by virtue of rule F4 (previous service reckonable on payment).

(3) Where this paragraph applies the man's pension shall be reduced by the percentage specified in the second column of the Table in paragraph 5 opposite the number of completed years of pensionable service he is entitled to reckon other than pensionable service falling within either or both of the following sub-paragraphs, namely—

- (a) pensionable service reckonable as mentioned in sub-paragraph (1), and
- (b) where (subject to rules F4(5) and F5(2)) he elected under article 58(3) or 59(3) of the 1973 Scheme to pay further contributions or to make further payment by way of a lump sum, pensionable service reckonable by him immediately before 1st July 1973 otherwise than by reason of regular service after 31st March 1972.

3.—(1) Subject to sub-paragraph (2), this paragraph applies in the case of a man entitled to reckon pensionable service otherwise than—

- (a) by reason of regular service after 31st March 1972, or
- (b) by virtue of rule F7.

(2) Where the man was a regular firefighter to whom article 59 or 60 of the 1973 Scheme applied, this paragraph does not apply unless—

- (a) he elected or agreed, under article 59(3)(b) or (4)(b) or 60(3)(b) of the 1973 Scheme, that his pension be reduced, or
- (b) pensionable service became reckonable by him after 29th February 1992 by virtue of rule F4.

(3) Where this paragraph applies, the man's pension shall be reduced by the percentage specified in the third column of the Table in paragraph 5 opposite the number of completed years of pensionable service he is entitled to reckon other than pensionable service falling within either or both of the following sub-paragraphs, namely—

- (a) pensionable service reckonable as mentioned in sub-paragraph (1), and
- (b) where (subject to rules F4(5) and F5(2)) he elected under article 58(2) or 59(2) of the 1973 Scheme to pay additional contributions or to make an additional payment by way of a lump sum, pensionable service reckonable by him immediately before 1st July 1973 otherwise than by reason of regular service after 31st March 1972.

4. In calculating the amount of a reduction in a pension under paragraph 2 or 3 no account shall be taken of any reduction in the amount of the pension under the other of those paragraphs or under rule B7 or B9 (commutation and allocation) or Part VII of this Schedule.

5. The following Table is that referred to in paragraphs 2 and 3.

TABLE

<i>Completed years of pensionable service taken into account</i>	<i>Percentage reduction in pension</i>	
	<i>Under paragraph 2</i>	<i>Under paragraph 3</i>
1	0.2	0.2
2	0.4	0.4
3	0.6	0.5
4	0.8	0.7
5	1.0	0.8
6	1.2	0.9
7	1.3	1.0
8	1.4	1.1
9	1.6	1.2
10	1.7	1.3
11	1.8	1.4
12	1.9	1.5
13	2.1	1.6
14	2.2	1.6
15	2.3	1.7
16	2.4	1.8
17	2.5	1.9
18	2.6	2.0
19	2.7	2.0
20	2.8	2.1
21	2.9	2.1
22	3.0	2.2
23	3.1	2.2
24	3.2	2.3
25	3.2	2.3
26	3.3	2.4
27	3.4	2.4
28	3.4	2.5
29	3.5	2.5
30 or more	3.5	2.5

6.—(1) Where a man entitled to an ordinary pension was, immediately before he retired, paying additional or further contributions in pursuance of an election under article 58(2) or (3) of the 1973 Scheme, the annual amount of the ordinary pension shall, for the appropriate period, be reduced by the annual amount of those contributions immediately before his retirement, calculated by reference to his pensionable pay at that time.

(2) The appropriate period is that for which the contributions would have remained payable had the man not retired.

(3) No account shall be taken of any reduction under this paragraph for the purpose of calculating any other reduction in the pension under this Scheme.

AWARDS ON DEATH-SPOUSES

PART I

SPOUSE'S ORDINARY PENSION

- 1.—(1) Subject to paragraph 2, the amount of an ordinary pension is the greater of—
- (a) half the amount of the base pension described in sub-paragraph (2), and
 - (b) the amount of a requisite benefit pension calculated in accordance with Part V of this Schedule.
- (2) The base pension mentioned in sub-paragraph (1)(a) is—
- (a) where rule C1(1)(a) applies, the higher tier 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 C1(1)(b) applies, the ordinary, short service or ill-health pension the deceased was receiving,
 - (c) where rule C1(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 C1(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 uprating of widow's pensions) but taking into account the provisions of Part VIA of Schedule 2 (calculation of awards for part-time service).

2. For any period in respect of which the surviving spouse or civil partner so elects, the amount of the ordinary pension shall be calculated in accordance not with paragraph 1 but with rule E9 (flat-rate award).

... [Part II omitted]

PART III

SPOUSE'S ACCRUED PENSION

- 1.—3. For the purposes of this Part half-rate service comprises—
- (a) pensionable service reckonable by virtue of service as a regular firefighter after 31st March 1972,
 - (b) pensionable service reckonable by virtue of rule F7 (receipt of transfer value),
 - (c) pensionable service reckonable by virtue of rule I6 (servicemen),
 - (d) any period of pensionable service of less than a year taken into account in making any calculation required as a result of an election under article 58(3) of the 1973 Scheme or in calculating a reduction in pension under paragraph 3 of Part VIII of Schedule 2,
 - (e) the appropriate fraction of any longer period taken into account in calculating such a reduction,
 - (f) the appropriate fraction of any pensionable service taken into account in calculating further contributions payable pursuant to an election under article 58(3) of the 1973 Scheme which the deceased was continuing to pay as required by rule G4 immediately before he retired, and
 - (g) any pensionable service taken into account in calculating a further payment by way of a lump sum made by him pursuant to an election under article 59(3) of the 1973 Scheme.

- (2) For the purposes of this Part mixed-rate service comprises—
- (a) pensionable service reckonable by virtue of service as a regular firefighter in respect of which the deceased paid contributions at a rate related to 6% of his pensionable pay,
 - (b) pensionable service falling within sub-paragraph (1)(a) to (c),
 - (c) any period of pensionable service of less than a year taken into account in making any calculation required as a result of an election under article 58(2), or of one the effect of which was preserved by article 57, of the 1973 Scheme, or in calculating a reduction in pension under paragraph 2 of Part VIII of Schedule 2,
 - (d) the appropriate fraction of any longer period taken into account in calculating such a reduction,
 - (e) the appropriate fraction of any pensionable service taken into account in calculating additional contributions payable pursuant to an election under article 58(2), or to one the effect of which was preserved by article 57, of the 1973 Scheme which the deceased was continuing to pay as required by rule G4 immediately before he died, and
 - (f) any pensionable service taken into account in calculating an additional payment by way of a lump sum made by him pursuant to an election under article 59(3) of the 1973 Scheme.

For pensionable service falling within sub-paragraph (1)(e) or (2)(d) the appropriate fraction is—

$$A \div B$$

where—

A is the period of the deceased's actual service after the material date, and

B is the period of actual service he would have had if (irrespective of the date of his death) he had not retired until entitled to an ordinary pension, or until he could have been required to retire on account of age, whichever is the earlier.

(4) The material date is—

- (a) for the purposes of sub-paragraph (1)(e), 31st March 1972, and
- (b) for the purposes of sub-paragraph (2)(d), 25th August 1966.

(5) For pensionable service falling within sub-paragraph (1)(f) or 2(e) the appropriate fraction is—

$$C / D$$

where—

C is the period during which the contributions were paid, and

D is the period specified in sub-paragraph (6).

(6) The period is the greater of—

- (a) 5 years, and
- (b) 25 years less the period of pensionable service the deceased was entitled to reckon on the relevant date.

(7) The relevant date is—

- (a) where the deceased last served as a regular firefighter before 1st October 1978, the date on which he elected to pay the contributions, and
- (b) in any other case, the date from which the contributions became payable.

(8) The periods mentioned in sub-paragraphs (3) and (6)(b) are to be counted in complete years and months.

4.—(1) Subject to sub-paragraph (3), the amount of the surviving spouse's accrued pension is the total of—

- (a) 1/6th of the deceased's deferred pension multiplied by the appropriate fraction of his half-rate service, and
- (b) 1/3rd of his deferred pension multiplied by the appropriate fraction of his mixed-rate service.

(2) The appropriate fraction is—

$$A \div B$$

where—

A is the deceased's half-rate, or, as the case may be, mixed rate service, and

B is all the pensionable service he was entitled to reckon.

(3) In calculating the deceased's deferred pension for the purposes of this paragraph account shall be taken of Part VIA of Schedule 2 (calculation of awards for part-time service), but 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.—(1) Subject to sub-paragraphs (2) and (3), for any period in respect of which a surviving spouse so elects, the amount of the accrued pension shall be calculated in accordance not with paragraphs 1 and 2 but with rule E9 (flat-rate award).

(2) This paragraph does not apply where the pensionable service reckonable in calculating the deceased's deferred pension was—

- (a) if he became entitled to the pension before 6th April 1988, less than 5 years, and
- (b) in any other case, less than 2 years.

(3) This paragraph does not apply where an election made by the deceased under rule G3 had effect at the time of his death.

PART IV

PENSION FOR SURVIVING SPOUSE OF POST-RETIREMENT MARRIAGE

1.—(1) Where the surviving spouse would otherwise have been entitled to an ordinary pension under rule C1, *..[words omitted]* the amount of his pension under rule C5 shall, subject to sub-paragraph (2), be calculated in accordance with paragraph 1 of Part I of this Schedule in the same way as that of an ordinary pension.

(2) For the purposes of this paragraph, paragraph 1 of Part 1 has effect as if the reference in sub-paragraph (1)(a) to the base pension were a reference to the appropriate portion of the base pension.

2.—(1) Where the surviving spouse would otherwise have been entitled to an accrued pension under rule C4, the amount of his 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) subject to sub-paragraph (3), 1/160th 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 ("relevant pensionable service").

(3) Where some or all of the deceased's service, which is reckonable as pensionable service, was part-time service, the amount at sub-paragraph (2)(b) shall be calculated using the formula in paragraph 2 of Part VIA of Schedule 2.

(4) In making the calculation mentioned in sub-paragraph (3)—

- (a) for the value of A there shall be substituted "A is the amount calculated under paragraph 2(2)(b) of Part IV of Schedule 3 if the average pensionable pay was the pay the deceased would have received had he been a whole-time employee of a fire and rescue authority"; and
- (b) in relation to B, C and D only pensionable service after 5th April 1978 shall be counted.

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
SPOUSE'S REQUISITE BENEFIT PENSION

1. Subject to paragraph 2, the amount of a requisite benefit pension is 1 divided by 160 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.

2. Where some or all of the deceased's service, which is reckonable as pensionable service, was part-time service, the amount of a requisite benefit pension shall be calculated using the formula in paragraph 2 of Part VIA of Schedule 2.

3. In making the calculation mentioned in sub-paragraph 2, for the value of A there shall be substituted "A is the amount calculated under paragraph 1 of Part V of Schedule 3 if the average pensionable pay was the pay the deceased would have received had he been a whole-time member of a brigade" and in relation to B, C and D only pensionable service after 5th April 1978 shall be counted.

SCHEDULE 4

Part D

AWARDS ON DEATH-CHILDREN

PART I

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 higher tier 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) but taking account of Part VIA of Schedule 2 (calculation of awards for part-time service).

2.—(1) Where—

- (a) the deceased died while entitled to a pension other than a deferred pension, and

- (b) a surviving spouse's or civil partner'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 or civil partner'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) or rule B9(12) allocation.

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 omitted]

PART III

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 account shall be taken of Part VIA of Schedule 2 (calculation of awards for part-time service), but 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 or civil partner'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
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 ... *[words omitted]* 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 either sub-paragraph (2)(b) or (3)(b) of paragraph 1 of Part I 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.

SCHEDULE 5

Part E

AWARDS ON DEATH-ADDITIONAL PROVISIONS

...*[Part I omitted by S.I. 2006/1810.]*

[Part II omitted by S.I. 2005/2980]

(a) 1971 c.56.

PART III

GRATUITY IN LIEU OF CHILD'S ALLOWANCE

1. The amount of the gratuity is such amount, not exceeding the permitted amount, as may be agreed between the fire and rescue authority and—

- (a) a surviving parent or the child's guardian, or
- (b) if he has neither, the child himself.

2. The permitted amount is the capitalised value of the amount commuted under rule E6, calculated in accordance with tables prepared from time to time by the Government Actuary.

SCHEDULE 6

PENSIONABLE SERVICE AND TRANSFER VALUES

PART I

PAYMENTS IN RESPECT OF PREVIOUS SERVICE

1.—(1) Subject to sub-paragraphs (2) to (4), an amount which a person undertakes to pay in accordance with this paragraph shall be paid by such regular instalments as will secure that the whole of the amount has been paid within a period of 5 years and before he reaches normal pension age; the instalments are payable to the fire and rescue authority by whom he was employed when he gave the undertaking, who may deduct them from his pay.

(2) The person may at any time discharge his liability in whole or part by paying to the fire and rescue authority the whole or, as the case may be, a part of the balance then outstanding.

(3) If before he has paid the whole of the amount he—

- (a) retires and does not become entitled to an award other than one under rule B6 (repayment of aggregate pension contributions), or
- (b) dies,

any balance then outstanding shall be treated as having been paid.

(4) If before he has paid the whole of the amount he retires and becomes entitled to an award other than one under rule B6, the fire and rescue authority may deduct the balance then outstanding from payments of any award payable to him.

2.—(1) Subject to sub-paragraph (2), the sum referred to in rule F4(3)(c) is $A \times B \times C$, where—

A is the person's annual pensionable pay at the time when he again became a regular firefighter, or if he is a part-time employee of a fire and rescue authority, the annual pensionable pay he would have received had he been a whole-time employee,

B is the factor ascertained from the Table below by reference to his age at that time, and

C is the number of complete years he was entitled to reckon as pensionable service when he retired.

TABLE

<i>Age</i>	<i>Factor</i>
Under 38	0.0950
38	0.0960
39	0.0970
40	0.0980
41	0.0990
42	0.1005
43	0.1020
<i>Age</i>	<i>Factor</i>

44	0.1040
45	0.1055
46	0.1070
47	0.1090
48	0.1105
49	0.1125
50	0.1140
51	0.1160
52	0.1180
53	0.1200
54	0.1230
55 and over	0.1260

(2) The sum calculated in accordance with sub-paragraph (1) shall be reduced by half of any amount which, if rule F4(1) had applied and a sum had been payable under rule F8 (transfer payments between authorities), would for the purpose of calculating that sum have constituted (C x D) in the formula set out in paragraph 2 of Part III.

PART II

SERVICE RECKONABLE ON RECEIPT OF TRANSFER VALUE

1.—(1) If the previous scheme is a club scheme, the period reckonable as pensionable service is one equal to the period that would enable the fire and rescue authority to pay a transfer value, calculated on the cash equivalent basis, of the same amount as the one received.

(2) A transfer value is calculated on the cash equivalent basis if it is calculated in the manner prescribed under paragraph 14 of Schedule 1A to the Social Security Pensions Act 1975(a) for the calculation of cash equivalents.

(3) In calculating the period any sum representing interest that is included in the transfer value received is not to be taken into account.

2.—(1) Subject to paragraph 3, if the previous scheme is not a club scheme the period reckonable as pensionable service is that specified in sub-paragraph (2).

(2) The period is—

$$A + B + C / D + E \text{ years,}$$

where—

A is the amount of the transfer value divided by the market level indicator for the month in which the material date occurred,

B is any amount in respect of graduated National Insurance modification notified by the scheme managers of the previous scheme,

C is 52 times the amount in respect of the person's guaranteed minimum multiplied by the minimum pension factor,

D is 1/45th of the rate of his annual pensionable pay at the material date multiplied by the pension factor, and

E is 1/90th of the rate of his annual pensionable pay at the material date multiplied by the surviving spouse's or civil partner's pension factor.

(3) The market level indicator for a month is to be ascertained from tables provided by the Government Actuary by reference to—

- (a) the person's age at the material date, and
- (b) the average gross redemption yield on the first working day of the month, ascertained from the FT-Actuaries Share indices published in the Financial Times newspaper, on British

(a) 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

Government index-linked stocks redeemable after 5 years or more, assuming inflation at 5 per cent (interpolating where that yield is not an integral percentage).

(4) The amount in respect of the person's guaranteed minimum is F+G, where—

F is so much of his guaranteed minimum as is attributable to service before 6th April 1988, and

G is half of so much of it as is attributable to service after 5th April 1988.

(5) The material date—

(a) if the transfer value was received within 12 months after the date on which the person became a regular firefighter, is that date, and

(b) in any other case, is the date on which the transfer value was received.

(6) The factors are to be ascertained from tables provided by the Government Actuary by reference to the person's age on the material date.

3. If—

(a) the previous scheme is not a club scheme, and

(b) the person became a regular firefighter before 1st January 1986,

the period reckonable as pensionable service is one calculated as if paragraphs 1 to 4 of Part II of Schedule 9 to the 1973 Scheme and Part III of that Schedule, as in force on 29th February 1992, had continued in force.

4. In this Part—

(a) annual pensionable pay, in the case of a part-time employee of a fire and rescue authority, is the pay the person would have received had he been a whole-time employee of a fire and rescue authority; and

(b) periods of reckonable pensionable service shall be treated as periods of whole-time service.

PART III

TRANSFER PAYMENTS BETWEEN FIRE AUTHORITIES

1. Subject to paragraphs 4, 5 and 7, the sum payable is the total of the basic element and the spouse's element.

2. The basic element is $(A \times B) - (C \times D)$, where—

A is the annual amount of the deferred pension to which the person would have been entitled had he become entitled to one on retiring from the first brigade or fire and rescue authority (as the case may be) ("the notional pension"),

B is the pension factor,

C is any annual amount by which such a deferred pension would have been reduced at state pensionable age under paragraphs 1 to 3 of Part VII of Schedule 2, and

D is the National Insurance factor.

3. The spouse's or civil partner's element is $E \times F$, where—

E is the annual amount of the accrued pension to which a surviving spouse or civil partner would become entitled on the death of a person entitled to a deferred pension equal to the notional pension, and

F is 4 in the case of a man and 1.1 in the case of a woman.

4.—(1) If when he retired from the first brigade or fire and rescue authority (as the case may be) the person had a guaranteed minimum in relation to a pension provided by this Scheme, the sum calculated in accordance with paragraphs 1 to 3 is reduced by $G \times H$, where—

G is 52.18 times the guaranteed minimum, and

H is the minimum pension factor.

(2) If a contributions equivalent premium has been paid in respect of the person and has not been repaid, the sum calculated in accordance with paragraphs 1 to 3 is reduced by the amount of that premium.

5. If—

- (a) the person had undertaken to make payments in accordance with paragraph 1 of Part I, and
- (b) not all the instalments had been paid when he retired from the first brigade or fire and rescue authority (as the case may be),

the sum calculated in accordance with paragraphs 1 to 3 is reduced by the actuarial equivalent of the unpaid instalments calculated, in accordance with tables provided by the Government Actuary, by reference to the amount of each instalment, the interval at which instalments were payable and the number of unpaid instalments.

6. The factors referred to in paragraphs 2 and 4 are to be ascertained from the Table below by reference to the person's age on retiring from the first brigade or fire and rescue authority (as the case may be).

TABLE

<i>Age</i>	<i>Men</i>			<i>Women</i>		
	<i>Pension factor</i>	<i>National Insurance factor</i>	<i>Minimum pension factor</i>	<i>Pension factor</i>	<i>National Insurance factor</i>	<i>Minimum pension factor</i>
Less than 20	5.00	0.25	1.47	7.00	0.50	2.20
20	5.05	0.25	1.50	7.05	0.50	2.24
21	5.10	0.25	1.53	7.10	0.55	2.28
22	5.15	0.30	1.56	7.15	0.60	2.32
23	5.20	0.30	1.59	7.20	0.65	2.36
24	5.25	0.30	1.62	7.25	0.70	2.40
25	5.30	0.35	1.65	7.35	0.75	2.45
26	5.35	0.40	1.68	7.40	0.80	2.50
27	5.40	0.40	1.71	7.45	0.85	2.55
28	5.45	0.45	1.74	7.50	0.90	2.60
29	5.50	0.50	1.78	7.55	0.95	2.66
30	5.55	0.50	1.81	7.65	1.05	2.71
31	5.60	0.55	1.85	7.70	1.15	2.77
32	5.65	0.60	1.88	7.80	1.25	2.82
33	5.70	0.65	1.92	7.90	1.35	2.88
34	5.75	0.70	1.95	7.95	1.45	2.93
35	5.80	0.80	1.99	8.05	1.55	2.99
36	5.85	0.90	2.02	8.15	1.65	3.05
37	5.90	1.00	2.06	8.25	1.75	3.11
38	5.95	1.10	2.10	8.35	1.85	3.17
39	6.00	1.20	2.14	8.45	1.95	3.24
40	6.05	1.30	2.18	8.55	2.10	3.31
41	6.10	1.40	2.22	8.65	2.25	3.38
42	6.15	1.50	2.26	8.75	2.45	3.45
43	6.20	1.60	2.30	8.85	2.65	3.52
44	6.25	1.70	2.34	8.95	2.90	3.59
45	6.30	1.80	2.39	9.05	3.15	3.66
46	6.40	1.90	2.44	9.15	3.40	3.74
47	6.50	2.00	2.48	9.25	3.70	3.82
48	6.60	2.20	2.53	9.35	4.00	3.90
49	6.70	2.40	2.58	9.45	4.35	3.98
50	6.80	2.60	2.62	9.55	4.75	4.06
51	6.90	2.90	2.67	9.65	5.15	4.15
52	7.10	3.20	2.72	9.80	5.60	4.24

<i>Age</i>	<i>Men Pension factor</i>	<i>Women National Insurance factor</i>	<i>Minimum pension factor</i>	<i>Pension factor</i>	<i>National Insurance factor</i>	<i>Minimum pension factor</i>
53	7.30	3.50	2.78	9.95	6.10	4.33
54	7.50	3.80	2.84	10.10	6.65	4.43
55	7.70	4.20	2.90	10.30	7.25	4.53
56	8.00	4.60	2.97	10.50	7.95	4.63
57	8.30	5.00	3.04	10.75	8.75	4.74
58	8.60	5.40	3.12	11.05	9.65	4.85
59	9.00	5.80	3.20	11.40	10.65	4.97
60	9.50	6.30	3.28	11.75	11.75	--
61	9.50	6.80	3.36	11.75	11.75	--
62	9.50	7.40	3.44	11.75	11.75	--
63	9.50	8.10	3.53	11.75	11.75	--
64	9.50	9.00	3.64	11.75	11.75	--
65	9.50	9.50	--	11.75	11.75	--

6A. In the case of a pension debit member, the sum payable is reduced by such amount as is calculated in accordance with such guidance as is provided for the purpose by the Government Actuary.

7. If payment is not made within 6 months after the person retired from the first brigade, the sum calculated in accordance with paragraphs 1 to 6 is increased by adding to it interest at 9 per cent per annum, compounded with 3-monthly rests, for the period of 3 months beginning on the date of the retirement and for each subsequent complete period of 3 months before the date of payment.

PART IV

AMOUNT OF TRANSFER VALUE

1. A transfer value is calculated on the cash equivalent basis if it is calculated in the manner prescribed under paragraph 14 of Schedule 1A to the Social Security Pensions Act 1975 for the calculation of cash equivalents.

2. Where—

- (a) a transfer value is payable to the scheme managers of a club scheme or a personal pension scheme, or
- (b) a transfer value is payable to the scheme managers of an approved scheme which is not a club scheme and none of the service to which it relates is service before 1st October 1990,

and no right to a cash equivalent was acquired, the transfer value is to be calculated on the cash equivalent basis.

3. Where—

- (a) a transfer value is payable to the scheme managers of an approved scheme which is not a club scheme, and
- (b) the service to which it relates includes service before 1st October 1990, and
- (c) no right to a cash equivalent was acquired,

the amount of the transfer value is the total of A and the greater of B and C, where—

A is a notional transfer value, calculated on the cash equivalent basis, in respect of the person's service after 30th September 1990,

B is a notional transfer value, calculated on the cash equivalent basis, in respect of his service before 1st October 1990, and

C is a notional transfer payment, calculated in accordance with Part III of this Schedule, in respect of his service before 1st October 1990.

4. Where—

- (a) a transfer value is payable to the scheme managers of an approved scheme which is not a club scheme, and
- (b) the service to which it relates includes service before 1st October 1990, and
- (c) a right to a cash equivalent was acquired,

the amount of the transfer value is D-E, where—

- D is the transfer value that would have been payable if paragraph 3 had applied, and
- E is the amount of the cash equivalent.

5. Where—

- (a) a transfer value is payable to the scheme managers of a personal pension scheme, and
- (b) a right to a part cash equivalent was acquired,

the transfer value is to be calculated on the cash equivalent basis but as if the person's service as a regular firefighter had ended with 5th April 1988.

6. In the case of a pension debit member, the sum payable is reduced by such amount as is calculated in accordance with such guidance as is provided for the purpose by the Government Actuary.

SCHEDULE 7

WAR SERVICE

PART I

WAR SERVICE ELECTIONS

1. A war service election is an election that additional pensionable service is to become, or to be treated as having become, reckonable by virtue of a period of war service.

2.—(1) A war service election is to be made by giving written notice to the appropriate fire authority.

(2) The appropriate fire authority is—

- (a) the fire authority maintaining the brigade in which the person in relation to whom the additional pensionable service is to be reckonable is serving, or
- (b) where he is entitled to a pension, or a surviving spouse's pension or child's allowance is payable, or a transfer value or cash equivalent has at any time become payable, the fire authority liable for payment.

(3) The notice must specify whether the additional pensionable service is to be reckonable—

- (a) for all purposes except those of calculating a surviving spouse's pension or child's allowance, or
- (b) for all purposes.

PART II

WAR SERVICE FOLLOWED BY FIRE SERVICE

1.—(1) For the purposes of this Part a person's war service is, subject to sub-paragraph (2), the period of his whole-time service after 2nd September 1939 but before 1st July 1950, while 18 years old or older, in the armed forces of the Crown, in the merchant navy or the mercantile marine, or in any of the women's services that were specified in Schedule 1 to the Superannuation Act 1946(a).

(2) A person's war service does not include any period—

(a) 1946 c.60; Schedule 1 was repealed by the Superannuation Act 1965 (c.74), section 104 and Schedule 11

- (a) in respect of which any non-effective pay or excess remuneration has been received by him and not repaid, or
 - (b) by virtue of which any armed forces pension or retired pay is payable to him in pursuance of any Royal Warrant or other instrument otherwise than in respect of disablement, or
 - (c) by virtue of which he is entitled to reckon any period as pensionable service otherwise than under this Part, or
 - (d) which he has reckoned or had the opportunity to reckon for the purposes of a public service pension scheme within the meaning of section 51(3)(b) of the Social Security Act 1973(a).
- (3) For the purposes of sub-paragraph (2)(a)—
- (a) “non-effective pay” includes naval, military and air force pensions, retired pay, and gratuities (other than war gratuities to which section 23 of the Finance (No. 2) Act 1945(b) applied), and
 - (b) “excess remuneration” means, in relation to a retired officer of the armed forces of the Crown who is re-employed in those forces, any service pension drawn in respect of such period of re-employment or any addition to the normal pay attaching to the post in which the officer is re-employed which is granted by reason of the officer’s former employment in those forces, and a fire authority shall be entitled to rely on a certificate, signed by a duly authorised officer of the Ministry of Defence, that non-effective pay or excess remuneration was, or was not, paid in respect of any period and as to the sufficiency of any repayment.

2. This Part applies in the case of a person with war service who—

- (a) after the end of his war service and before 1st July 1950 served as a member of a brigade, and
- (b) is, or was immediately before his death, entitled to reckon pensionable service by virtue of his service before that date,

and in this Schedule “qualified fireman” means a person in whose case this Part applies.

3.—(1) Where this Part applies a war service election may be made by the qualified fireman.

(2) The notice of election must specify the period of war service by virtue of which the additional pensionable service is to be reckonable “the specified period”).

(3) The notice must be given not earlier than 3 months before his intended retirement nor later than 3 months (or such longer period as the fire authority may allow) after his retirement, and if—

- (a) he dies while serving as a regular firefighter, or
- (b) he retires more than 3 months after the notice was given,

the election does not take effect.

(4) Subject to sub-paragraph (5) and to Part V, where—

- (a) an election has taken effect, and
- (b) the payment conditions in paragraph 4 are satisfied,

the qualified fireman shall be treated as having been entitled, immediately before his retirement, to reckon as pensionable service for the purposes specified in the notice (“the specified purposes”) a period equal to half the specified period.

(5) Where—

- (a) the period specified in the notice is the whole of his war service, and
- (b) a shorter period would produce the benefits sought,

the shorter period shall be substituted as the specified period.

4.—(1) Subject to sub-paragraphs (8) and (9), the payment conditions are satisfied if the required amount is paid to the fire authority within the appropriate period, or such longer period as the fire authority may allow.

(2) Where the qualified fireman—

(a) 1973 c.38.

(b) 1945 c.13; section 23 was repealed by the Income Tax Act 1952 (c.10).

- (a) has commuted a portion of his pension for a lump sum equal to or greater than the required amount, and
- (b) has not been paid the lump sum, and
- (c) instructs the fire authority in writing to deduct the required amount from the lump sum,

the required amount is to be treated as having been paid when the instruction was given.

(3) The required amount is—

- (a) where the specified purposes are those mentioned in paragraph 2(3)(a) of Part I, the basic amount calculated in accordance with sub-paragraph (4), and
- (b) where the specified purposes are those mentioned in paragraph 2(3)(b) of Part I, the total of the basic amount and the additional amount calculated in accordance with sub-paragraph (5) or, as the case may be, sub-paragraphs (5) and (6).

(4) The basic amount is £A+B, where—

A is one seventh of 0.225 times the number of days of additional pensionable service, and

B is interest on A at three and a half per cent per annum, compounded with yearly rests, from 1st July 1950 to the date of payment, or if earlier, the date of the qualified fireman's death.

(5) Subject to sub-paragraph (6), the additional amount is half the amount by which the actuarial value of the hypothetical pension, calculated in accordance with tables prepared by the Government Actuary, is increased by virtue of the additional pensionable service; the hypothetical pension is the pension that would have been payable to a surviving spouse entitled to such a pension if—

- (a) the qualified fireman had died on the date of his retirement, and
- (b) rule E8 (increase during first 13 weeks) had not applied.

(6) Where the qualified fireman is, or on retirement will be, entitled to a deferred pension, the additional amount calculated in accordance with sub-paragraph (5) is increased by adding to it interest at three and a half per cent per annum, compounded with yearly rests, from 1st July 1950 to the date of payment or, if earlier, the date of his death.

(7) The appropriate period for payment of the required amount is one of 3 months beginning on the date on which notice of the election was given.

(8) Where the qualified fireman is entitled to a deferred pension which has not come into payment within the appropriate period, the payment conditions are satisfied if the required amount is paid to the fire authority within 3 months after the date on which the pension comes into payment.

PART III

TRANSFeree'S WAR SERVICE RECKONABLE WITHOUT RECEIPT OF TRANSFER VALUE

1.—(1) This Part applies in the case of a person who at the material time—

- (a) either was serving as a regular firefighter or had retired with an entitlement to a pension, and
- (b) was entitled to reckon pensionable service for the purposes of the Firemen's Pension Scheme in force at that time by virtue of a period of qualifying service, and
- (c) was not entitled under the war service provisions of the scheme applicable to his qualifying service (the "qualifying scheme") to reckon service for pension purposes by virtue of his qualifying service, but would have been so entitled if he had remained in that scheme until the material time.

- (2) The material time—
- (a) where the person died or retired before 1st April 1978, is immediately before his death or retirement, whichever is the earlier, and
 - (b) in any other case, is 1st April 1978.
- (3) For the purposes of this Part—
- (a) qualifying service is service or employment described in sub-paragraph (6),
 - (b) the war service provisions of a qualifying scheme are provisions analogous to those of Part II, and those of Part V as they apply to a qualified fireman, and
 - (c) “war service” has the same meaning as in the war service provisions of the qualifying scheme.
- (4) The appropriate fire authority—
- (a) may require that any claim that paragraph 1(1)(c) is satisfied, and as to the duration of the person’s war service, be supported by a certificate given by or on behalf of the scheme managers of the qualifying scheme, and
 - (b) are entitled to rely on such a certificate.
- (5) Where this Part would be capable of applying by virtue of more than one period of qualifying service it applies by virtue only of the first such period, and the others are to be disregarded.
- (6) Qualifying service comprises—
- (a) police service, that is to say, service pensionable in pursuance of the Police Pensions Regulations from time to time in force under sections 1, 3 and 4 of the Police Pensions Act 1976(a);
 - (b) teaching service, that is to say, service pensionable in pursuance of regulations from time to time in force under section 9 of the Superannuation Act 1972(b), the Teachers’ Superannuation (Scotland) Act 1968(c), the Teachers’ Superannuation Act 1967(d), the Teachers’ Superannuation Act 1965(e), section 102 of the Education (Scotland) Act 1962(f) or under the Teachers’ (Superannuation) Act 1925(g), or under a scheme comprised in a Teachers’ Superannuation Scheme (within the meaning of section 145(47) of the said Act of 1962) from time to time in force;
 - (c) National Health Service, that is to say, service pensionable in pursuance of regulations from time to time in force under section 10 of the Superannuation Act 1972, section 67 of the National Health Service Act 1946(h), or section 66 of the National Health Service (Scotland) Act 1947(i).
 - (d) Local Government service, that is to say, service pensionable—
 - (i) under the Local Government Superannuation Act 1937(j) (“the 1937 Act”) or the Local Government Superannuation (Scotland) Act 1937(k) or in pursuance of regulations from time to time in force under the Local Government Superannuation Act 1953(l) or section 7 of the Superannuation Act 1972(m) (“the 1972 Act”), or
 - (ii) under a local Act scheme within the meaning of the 1937 Act or the 1972 Act;
 - (e) Northern Ireland fire service, that is to say, service pensionable in pursuance of the Firemen’s Pension Scheme from time to time in force under section 10 of the Fire Services (Amendment) Act (Northern Ireland) 1950(n) or section 17 of the Fire Services Act (Northern Ireland)

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- (a) 1976 c.35.
 - (b) 1972 c.11.
 - (c) 1968 c.12.
 - (d) 1967 c.12.
 - (e) 1965 c.83.
 - (f) 1962 c.47.
 - (g) 1925 c.59.
 - (h) 1946 c.81.
 - (i) 1947 c.27.
 - (j) 1937 c.68.
 - (k) 1937 c.69.
 - (l) 1953 c.25.
 - (m) 1972 c.11.
 - (n) 1950 c.4 (N.I.).

1969(a) or, as respects the Belfast fire brigade, the scheme so in force under section 13 of the said Act of 1950 or section 26 of the said Act of 1969;

- (f) Northern Ireland police service, that is to say, service pensionable in pursuance of an order or regulations from time to time in force under the Constabulary Acts (Northern Ireland) 1922 to 1949(b) or section 25 of the Police Act (Northern Ireland) 1970(c);
- (g) service in health and personal social services in Northern Ireland, that is to say, service pensionable in pursuance of regulations from time to time in force under section 61 of the Health Services Act (Northern Ireland) 1948(d), section 67 of the Health Services Act (Northern Ireland) 1971(e) and Schedule 8 thereto, or Article 12 of the Superannuation (Northern Ireland) Order 1972(f);
- (h) Northern Ireland teaching service, that is to say, service pensionable in pursuance of a scheme comprised in, or in regulations or rules from time to time in force under, Article 11 of the Superannuation (Northern Ireland) Order 1972 or the Teachers' Superannuation Acts (Northern Ireland) 1950 to 1967(g) or a 1923 Act Scheme (within the meaning of the Teachers' Superannuation Act (Northern Ireland) 1950(h));
- (i) Northern Ireland local government service, that is to say, service pensionable in pursuance of regulations from time to time in force under section 2 of the Local Government (Superannuation) Act (Northern Ireland) 1950(i) or Article 9 of the Superannuation (Northern Ireland) Order 1972.

2. A person in whose case this Part applies may, if the appropriate fire authority consent, make a war service election.

3.—(1) Subject to Part V, where an election is made under paragraph 2 to the person making it shall be treated as having been entitled, immediately before his retirement or, as the case may be, his death while serving, to reckon for the purposes of the Firemen's Pension Scheme in force at that time an additional period of pensionable service equal to the appropriate percentage of his war service.

(2) The appropriate percentage—

- (a) where the qualifying service is police service or Northern Ireland police or fire service, is 47.75,
- (b) where the qualifying service is National Health service or service in health and personal social services in Northern Ireland or local government service or Northern Ireland local government service, is 35.25, and
- (c) where the qualifying service is teaching service or Northern Ireland teaching service, is 34.875.

PART IV

TRANSFEREE'S WAR SERVICE RECKONABLE ON RECEIPT OF ADDITIONAL TRANSFER VALUE

1.—(1) This Part applies in the case of a person—

- (a) who at the material time either was serving as a regular firefighter or had retired with an entitlement to a pension, and
- (b) who had war service within the meaning of a public service pension scheme, and
- (c) in respect of whom there has been paid to the appropriate fire authority a transfer value which took account of service or employment in which he was subject to that scheme, and

(a) 1969 c.13 (N.I.).

(b) 1922 c.8 (N.I.); 1924 c.17 (N.I.); 1928 c.4 (N.I.); 1930 c.18 (N.I.); 1933 c.27 (N.I.); 1934 c.10 (N.I.); 1949 c.9 (N.I.).

(c) 1970 c.9 (N.I.).

(d) 1948 c.3 (N.I.).

(e) 1971 c.1 (N.I.).

(f) S.I. 1972/1073 (N.I. 10).

(g) 1950 c.33 (N.I.); 1951 c.28 (N.I.) (in part); 1956 c.22 (N.I.); 1963 c.7 (N.I.); 1967 c.3 (N.I.) partially repealed with savings by Article 23 of the Superannuation (Northern Ireland) Order 1972 (S.I. 1972/1073) (N.I. 10).

(h) 1950 c.33 (N.I.).

(i) 1950 c.10 (N.I.).

- (d) who by virtue of that transfer value was at the material time entitled to reckon pensionable service for the purposes of the Firemen's Pension Scheme in force at that time, and
- (e) in respect of whom there has been paid to the appropriate fire authority an additional transfer value calculated by reference to his war service.

(2) Where a transfer value paid was calculated partly by reference to war service and partly by reference to other service, so much of it as is referable to war service shall for the purposes of sub-paragraph (1)(e) be treated as an additional transfer value.

(3) The material time—

- (a) where the person died or retired before 1st April 1978, is immediately before his death or retirement, whichever is the earlier, and
- (b) in any other case, is 1st April 1978.

(4) The public service pension schemes are the Universities Superannuation Scheme and any occupational pension scheme which—

- (a) cannot come into force, or be amended, without the scheme or amendment being approved by a Minister of the Crown or government department, and
- (b) does not relate to service falling within paragraph 1(6) of Part III.

2. A person in whose case this Part applies may, if the appropriate fire authority consent, make a war service election.

3.—(1) Subject to Part V, where an election is made under paragraph 2 the person making it shall be treated as having been entitled immediately before his retirement, or as the case may be his death while serving, to reckon for the purposes of the Firemen's Pension Scheme in force at that time an additional period of pensionable service calculated in accordance with sub-paragraphs (2) and (3).

(2) The period is—

$$A \div B \text{ years}$$

where—

A is the basic transfer value, and

B is his adjusted pensionable emoluments multiplied by 1 1/3rd.

(3) The basic transfer value is the additional transfer value received less any amount representing compound interest, and the adjusted pensionable emoluments are the product of—

- (a) the annual value of the emoluments (including averaged emoluments and any element for pensions increase) in relation to which the additional transfer value was calculated, and
- (b) the age factor ascertained from the Table below.

TABLE

<i>Age in completed years</i>	
<i>on 1st April 1978</i>	<i>Factor</i>
40	0.1009
41	0.1018
42	0.1024
43	0.1031
44	0.1038
45	0.1045
46	0.1058
47	0.1073
48	1.1085
49	0.1099
50	0.1111
51	0.1125
<i>Age in completed years</i>	
<i>on 1st April 1978</i>	<i>Factor</i>
52	0.1150

53	0.1176
54	0.1203
55	0.1229
56	0.1267
57	0.1306
58	0.1345
59	0.1397
60	0.1463
61	0.1465
62	0.1469
63	0.1473
64	0.1478
65	0.1480
66	0.1436
67	0.1392
68	0.1355
69	0.1311
70	0.1267
71	0.1230
72	0.1190
73	0.1144
74	0.1106
75	0.1063
76	0.1019
77	0.0981
78	0.0938
79	0.0900
80	0.0854
81	0.0815
82	0.0775
83	0.0735
84	0.0698
85	0.0661
86	0.0623
87	0.0585
88	0.0554
89	0.0525
90	0.0496
91	0.0467
92	0.0440
93	0.0419
94	0.0398
95	0.0377
96	0.0356
97	0.0342
98	0.0321
99	0.0306

PART V
SUPPLEMENTARY PROVISIONS

1.—(1) This paragraph applies where—

- (a) under paragraph 3(3) of Part II the fire authority allow notice of a war service election to be given more than 3 months after the qualified fireman's retirement but are not satisfied that the delay was due to circumstances beyond his control, or
- (b) under paragraph 2 of Part III or paragraph 2 of Part IV they consent to the making of a war service election but are not satisfied that the person's failure to give notice under article 8 of the Firemen's Pension Scheme (War Service) Order 1979^(a) as modified by article 2(3)(b) of the Firemen's Pension Scheme (War Service) (Transferees) Order 1986^(b) was due to such circumstances.

(2) Where this paragraph applies—

- (a) the additional pensionable service becomes reckonable only from the date on which the notice was received, and
- (b) in a case falling within sub-paragraph (1)(a) above, paragraphs 5 and 6 below do not apply, and
- (c) in a case falling within sub-paragraph (1)(b) above, paragraph 5 below does not apply.

2.—(1) This paragraph applies where a qualified fireman dies, leaving a surviving spouse—

- (a) while serving and before becoming entitled under paragraph 3 of Part II to make a war service election, or
- (b) while so entitled but without having made an election, or
- (c) having made an election specifying only the purposes mentioned in paragraph 2(3)(a) of Part I.

(2) This paragraph also applies where a person in whose case Part III or IV applies dies, leaving a surviving spouse—

- (a) while serving and without having made an election under the Part in question or under the other provisions referred to in paragraph 1(1)(b) above, or
- (b) having made an election specifying only the purposes mentioned in paragraph 2(3)(a) of Part I.

(3) In a case falling within sub-paragraph (1)(a) or (b) above, the surviving spouse may elect that the deceased is to be taken to have made a war service election specifying—

- (a) the purposes mentioned in paragraph 2(3)(b) of Part I, and
- (b) the period of war service specified in the spouse's notice of election.

(4) The surviving spouse—

- (a) in a case falling within sub-paragraph (1)(c) above may, and
- (b) in a case falling within sub-paragraph (2) above may if the appropriate fire authority consent,

elect that the deceased is to be taken to have made a war service election specifying the purposes mentioned in paragraph 2(3)(b) of Part I.

(5) Notice of an election under this paragraph must be given within 3 months, or such longer period as the fire authority may allow, after the death.

(6) In a case falling within sub-paragraph (1) above, in relation to an election under this paragraph, paragraph 3(4) of Part II has effect with the substitution for the reference to the qualified fireman's retirement of a reference to his death, and paragraph 4 of Part II has effect with the substitution—

- (a) for the hypothetical pension described in paragraph 4(5), of the surviving spouse's pension, and
- (b) for the date mentioned in paragraph 4(7), of the date on which notice of the election under this paragraph was given.

^(a) S.I. 1979/1360.
^(b) S.I. 1986/1663.

3. For the purposes of Part VIII of Schedule 2 (reduction of pension related to up-rating of widow's pension) the additional pensionable service reckonable by virtue of a war service election or an election under paragraph 2 above shall be disregarded.

4.—(1) This paragraph applies where a qualified fireman or a person in whose case Part III or Part IV applies has died and—

- (a) a surviving spouse is entitled under rule C4 to an accrued pension, or
- (b) a child is entitled under rule D4 to an accrued allowance,

in the calculation of which there is to be taken into account additional pensionable service reckonable by virtue of a war service election or an election under paragraph 2 above.

(2) Where this paragraph applies Part III of Schedule 3 and Part III of Schedule 4 have effect—

- (a) where the deceased had half-rate service not falling within paragraph 1(1)(a) or (c) of Part III of Schedule 3, as if both his half-rate and his mixed-rate service included any additional pensionable service reckonable by virtue of a war service election or an election under paragraph 2 above, and
- (b) where that is not the case but he has mixed-rate service, as if his mixed-rate service included any such additional pensionable service.

5.—(1) Where a qualified fireman or a person in whose case Part III or IV applies—

- (a) has allocated a portion of his pension under rule B9, and
- (b) subsequently received an increased pension on account of additional pensionable service reckonable by virtue of a war service election,

neither the amount allocated nor any right to allocate a further portion is affected.

(2) Where a qualified fireman or a person in whose case Part III or IV applies—

- (a) has allocated under rule B9 a portion of a short service or deferred pension, and
- (b) by virtue of a war service election becomes entitled to reckon a total of at least 25 years' pensionable service, and consequently becomes entitled to an ordinary pension,

the notice of allocation shall be treated as having related to the ordinary pension.

6. Where a qualified fireman or a person in whose case Part III or IV applies—

- (a) became entitled to an ordinary pension on retiring when entitled to reckon less than 30 years' pensionable service and before attaining the age of 55, and
- (b) by virtue of a war service election becomes entitled to reckon a total of at least 30 years' pensionable service,

he may give notice of commutation under rule B7 within 3 months after the additional pensionable service became reckonable.

7.—(1) This paragraph applies where a qualified fireman or a person in whose case Part III or IV applies—

- (a) retired with a deferred pension, and
- (b) by virtue of a war service election becomes entitled to reckon a total of at least 25 years' pensionable service, and consequently becomes entitled to an ordinary pension.

(2) If—

- (a) the deferred pension had come into payment, and
- (b) he had commuted a portion of it under rule B7,

the notice of commutation shall be treated as having related to the ordinary pension.

(3) If—

- (a) the deferred pension had not come into payment, but
- (b) he had given notice of commutation under rule B7,

the notice does not take effect, but he may give a fresh notice of commutation within 3 months after the date on which the additional pensionable service became reckonable.

8.—(1) This paragraph applies where—

- (a) a person makes a war service election under Part III or IV, and
- (b) the notice of election specifies only the purposes mentioned in paragraph 2(3)(a) of Part I.

(2) Where this paragraph applies—

- (a) for the purposes of calculating a surviving spouse's pension or a child's allowance his pension shall be taken to be what it would have been if the additional pensionable service had not been reckonable, but
- (b) if any of the provisions that were listed in Part III of Schedule 1 to the Firemen's Pension Scheme (War Service) Order 1979 (provisions, previously revoked subject to savings, for the calculation of the rate of widow's ordinary pension by reference to husband's pensionable service) apply in his case, the additional pensionable service counts for the purposes of those provisions.

9.—(1) This paragraph applies where—

- (a) a person makes a war service election under Part III or IV, and
- (b) the notice of election specifies the purposes mentioned in paragraph 2(3)(b) of Part I.

(2) Where this paragraph applies the additional pensionable service calculated in accordance with, as the case may be, paragraph 3 of Part III or paragraph 3 of Part IV is reduced by the applicable percentage.

(3) The applicable percentage—

- (a) in the case of a person without any pensionable service reckonable by virtue of service as a member of a brigade before 1st April 1972 ("pre-1972 pensionable service"), or a person with half-rate service, is 10.0, and
- (b) in any other case, is 7.5.

(4) In the case of a person without any pre-1972 pensionable service—

- (a) Parts I and II of Schedule 11 do not apply, and
- (b) for the purposes of Part III of Schedule 3 and paragraph 4 above, the additional pensionable service shall be treated as being half-rate and mixed-rate service.

10.—(1) Nothing in this Schedule affects the calculation of a pension payable—

- (a) where Part II applies, in respect of a period ending before 1st April 1975, or
- (b) where Part III or IV applies, in respect of a period ending before 1st April 1978,

and no payment shall be made in respect of such a period in the case of a pension that would not have been payable but for this Schedule.

(2) Nothing in this Schedule affects the calculation of a transfer value other than one payable in the case of a person who ceased to serve as a member of a brigade after 31st March 1975.

PART VI

PAYMENT OF ADDITIONAL TRANSFER VALUES

1.—(1) Subject to sub-paragraph (3), this Part applies in the case of a person—

- (a) who at the material time was a serving member of, or had retired with an entitlement to pension from, a public service pension scheme within the meaning of paragraph 1(4) of Part IV ("the 1978 scheme"),
- (b) who had ceased to be a member of a brigade before 1st April 1975 but would otherwise have been a qualified fireman within the meaning of article 6 of the Firemen's Pension Scheme (War Service) Order 1979, and

- (c) in respect of whom there became payable by the fire authority to the scheme managers of the 1978 scheme (“the 1978 pension authority”) a transfer value by virtue of which he was at the material time entitled to reckon service for the purposes of that scheme.
- (2) The material time—
 - (a) where the person died or retired from the 1978 scheme before 1st April 1978, is immediately before his death or the retirement, whichever is the earlier, and
 - (b) in any other case, is 1st April 1978.
- (3) In the case of a person who had a period of service—
 - (a) in which he was a member of a public service pension scheme within the meaning of section 51(3)(b) of the Social Security Act 1973(a) (“the earlier scheme”), and
 - (b) which was completed before he became a member of a brigade, and
 - (c) which reckoned as service for the purposes of the 1978 scheme,

this Part does not apply unless it appears to the appropriate fire authority that he has not had, and will not have, any opportunity to reckon war service for the purposes of the earlier scheme.

2.—(1) Subject to sub-paragraphs (2) to (5), in respect of a person in whose case this Part applies the appropriate fire authority shall pay the 1978 pension authority an additional transfer value calculated in accordance with paragraph 3.

- (2) The 1978 pension authority must have applied to the fire authority for the additional transfer value to be paid, and have certified to them—
 - (a) that the person was alive on 1st April 1975,
 - (b) that on payment of the additional transfer value he will be entitled to reckon service for the purposes of the 1978 scheme by virtue of his war service, and
 - (c) the amount of the relevant pensionable emoluments.
- (3) Where the person was on 1st April 1978 a serving member of the 1978 scheme, the relevant pensionable emoluments are those by reference to which a transfer value in respect of him falling to be paid on that date would have been calculated under that scheme.
- (4) In any other case, the relevant pensionable emoluments are the total of the pensionable emoluments by reference to which the pension under the 1978 scheme—
 - (a) was calculated, or
 - (b) if not in payment, would have been calculated if it had been put into payment on 1st April 1978,

and the pensions increase factor.

- (5) The pensions increase factor is the annual amount (if any) by which, by 1st April 1978, the pension—
 - (a) if in payment, had been increased, or
 - (b) if not in payment, would have been increased if it had been in payment and had qualified for increases,

under the Pensions (Increase) Act 1971(b).

3.—(1) The amount of an additional transfer value is the total of—

$$(47.75 \times (A \times B) \times C / 100) \times 4/3$$

and the appropriate interest on that sum.

(2) In sub-paragraph (1)—

A is the amount of the emoluments certified under paragraph 2(2),

B is the period of the person’s war service expressed in years and a fraction of a year, and

(a) 1973 c.38.
 (b) 1971 c.56.

- C is the age factor ascertained from the Table in paragraph 3(3) of Part IV.
- (3) The appropriate interest is interest at 9% per annum, compounded with 3-monthly rests, for each complete period of 3 months after 31st March 1978 and before the date of payment.

SCHEDULE 8

Part G

PURCHASE OF INCREASED BENEFITS

PART I

PAYMENTS

- 1.**—(1) In the case of a man, the lump sum mentioned in rule G6(1)(a) is $A \times B$, where—
- A is the specified number of sixtieths of his average pensionable pay, and
 - B is the percentage of his total pensionable pay during the year ending with the date of the election (“the relevant period”) ascertained from the Table in paragraph 5 by reference to his age on his next birthday after that date and, subject to sub-paragraph (2)(c), his normal pension age.
- (2) For the purposes of sub-paragraph (1)—
- (a) any reduction of pay during sick leave or stoppage by way of punishment shall be disregarded, and
 - (b) if he was in receipt of pensionable pay for part only of the relevant period, his total pensionable pay during the relevant period is his total pensionable pay for that part multiplied by the reciprocal of the fraction of the period which that part represents; and
 - (c) if he has the role of Station Manager B or a superior role, the definition of B shall have effect as if his normal pension age were 60.
- 2.** In the case of a woman, the lump sum mentioned in rule G6(1)(a) is the amount determined by the Government Actuary to be appropriate to the additional benefits secured by the election.
- 3.**—(1) In the case of a man, the amount for any period of the contributions mentioned in rule G6(1)(b) is $A \times C$, where—
- A is the specified number of sixtieths of his average pensionable pay, and
 - C is the percentage of his pensionable pay for the period ascertained from the Table in paragraph 5 by reference to his age on his next birthday after the date of the election and, subject to sub-paragraph (2)(c), his normal pension age.
- (2) For the purposes of sub-paragraph (1)—
- (a) any reduction of pay during sick leave or stoppage by way of punishment shall be disregarded, and
 - (b) for any period for which he is for any reason disentitled to pensionable pay, his pensionable pay shall be taken to be what it would have been but for the disentitlement; and
 - (c) if he has the role of Station Manager B or a superior role, the definition of C shall have effect as if his normal pension age were 60.
- 4.** In the case of a woman, the rate of the contributions mentioned in rule G6(1)(b) is the rate determined by the Government Actuary to be appropriate to the additional benefits secured by the election.
- 5.** The following Table is that referred to in paragraphs 1 and 3.

TABLE

<i>Age next birthday</i>	<i>Station Manager B or superior role</i>		<i>Roles below Station Manager B</i>	
	<i>Percentage Lump sum</i>	<i>Contributions</i>	<i>Percentage Lump sum</i>	<i>Contributions</i>
26			33.90	1.24
27			33.90	1.29
28			33.80	1.35
29			33.80	1.41
30			33.70	1.48
31	27.30	0.96	33.70	1.56
32	26.70	1.00	33.60	1.64
33	26.30	1.04	33.60	1.73
34	26.10	1.08	33.50	1.82
35	26.00	1.12	33.40	1.92
36	26.00	1.16	33.20	2.03
37	26.00	1.21	32.90	2.15
38	25.90	1.27	32.50	2.28
39	25.90	1.33	32.10	2.42
40	25.90	1.40	31.60	2.57
41	25.90	1.48	31.00	2.74
42	25.90	1.57	30.20	2.94
43	25.90	1.67	29.20	3.18
44	25.90	1.77	28.20	3.48
45	25.90	1.88	27.30	3.85
46	25.90	2.00	26.70	4.30
47	25.90	2.14	26.30	4.84
48	25.80	2.31	26.30	5.49
49	25.80	2.52	26.60	6.28
50	25.80	2.78	27.00	7.34
51	25.80	3.10	27.50	8.91
52	25.80	3.50	28.10	11.45
53	25.80	4.02	28.70	16.44
54	25.70	4.70	29.20	
55	25.70	5.60	29.60	
56	25.70	6.86		
57	25.80	9.05		
58	25.80	13.43		
59	25.90			
60	26.00			

PART II**CALCULATION OF APPROPRIATE AMOUNT**

1. The amount mentioned in rule G8(3) is—

$$A \times B / C$$

where—

A is the number of sixtieths of average pensionable pay specified in the election,

B is the length of the period, or the total length of the periods, during which payment had been made, and

C is the length of the period during which payment would have been made if payment had been continuous to the date of death or the person's normal pension age.

2. The amount mentioned in rule G8(5)(b) is—

$$A \times B / D$$

where A and B are the same as in paragraph 2 and D is the length of the period during which payment would have been made if payment had been continuous to the person's normal pension age.

3. The actuarial valuation mentioned in rule G8(6) is the assessment by the Government Actuary of the extent to which the value of the benefits is increased on account of their being paid before the person's normal pension age.

PART III

INCREASES BY REFERENCE TO APPROPRIATE AMOUNT

1. In this Part references to the appropriate amount are to the amount which is the appropriate amount for the purposes of rule G8(1)(a).

2.—(1) In the provisions mentioned in sub-paragraph (2) any reference to a pension of a kind provided for in Part B shall be treated as a reference to that pension increased by the appropriate amount.

(2) The provisions are those of—

- (a) rule E8 (increase of pensions and allowances during first 13 weeks),
- (b) Part I of Schedule 3 (spouse's or civil partner's ordinary pension),
- (c) Part IV of Schedule 3 (pension for surviving spouse or civil partner of post-retirement marriage),
- (d) Part I of Schedule 4 (child's ordinary allowance),
- (e) Part III of Schedule 4 (child's accrued allowance), and
- (f) Part III of Schedule 6 (transfer payments).

3.—(1) In the provisions mentioned in sub-paragraph (2) any reference to a pension or allowance of a kind provided for in Part C or D shall be treated as a reference to that pension or allowance as increased by virtue of this Part of this Schedule.

(2) The provisions are those of—

- (a) rule E5 (gratuity in lieu of surviving spouse's or civil partner's pension),
- (b) rule E6 (gratuity in lieu of child's allowance),
- (c) rule E8,
- (d) paragraph 2 of Part I of Schedule 4,
- (e) paragraph 5 of Part III of Schedule 4 (child's accrued allowance), and
- (f) Part III of Schedule 6.

4. A spouse's or civil partner's pension calculated under paragraphs 1 and 2 of Part III of Schedule 3 or under Part I of Schedule 11 shall be increased by half the appropriate amount.

5.—(1) In calculating a child's ordinary allowance under Part II of Schedule 11 the amounts A and B in paragraph 3 of that Part shall each be increased by the amount obtained by multiplying it by N/60.

(2) In calculating a child's accrued allowance under Part III of Schedule 4 the lengths of the half-rate service and total pensionable service mentioned in paragraph 3(3) of that Part shall each be increased by the period obtained by multiplying it by N/60.

(3) In sub-paragraphs (1) and (2) N is the number of sixtieths taken into account in ascertaining the appropriate amount.

SCHEDULE 9

APPEALS

PART I

APPEAL TO BOARD OF MEDICAL REFEREES

1.—(1) Subject to sub-paragraph (2), written notice of appeal against an opinion of the kind mentioned in rule H1(2) stating—

- (a) the grounds of the appeal, and
- (b) the appellant's name and address,

must be given to the fire and rescue authority within 14 days of the date on which he is supplied by them with a copy of the opinion.

(2) Where—

- (a) notice of appeal is not given within the period specified in sub-paragraph (1), but
- (b) the fire and rescue authority are of the opinion that the person's failure to give it within that period was not due to his own default,

they may extend the period for giving notice to such length, not exceeding 6 months from the date mentioned in sub-paragraph (1), as they think fit.

2.—(1) On receiving a notice of appeal the fire and rescue authority shall supply the Secretary of State with 2 copies of the notice and 2 copies of the opinion.

(2) The Secretary of State shall refer an appeal to a board of medical referees ("the board") and shall supply them with a copy of the notice and a copy of the opinion.

2A.—(1) The board shall consist of not less than three medical practitioners appointed by, or in accordance with arrangements made by, the Secretary of State.

(2) One member of the board shall be a specialist in a medical condition relevant to the appeal.

(3) One member of the board shall be appointed as chairman.

(4) Where there is an equality of voting among the members of the board, the chairman shall have a second or casting vote.

3. The board shall secure that the appellant and the fire and rescue authority ("the parties") have been informed—

- (a) that the appeal is to be determined by it, and
- (b) of an address to which communications relating to the appeal may be delivered to the board.

4.—(1) Subject to sub-paragraph (4), the board—

- (a) shall interview and medically examine the appellant at least once, and
- (b) may interview or medically examine him or cause him to be interviewed or medically examined on such further occasions as the board thinks necessary for the purpose of deciding the appeal.

(2) The board shall—

- (a) appoint, and
- (b) give the appellant and the fire and rescue authority not less than 21 days' notice of,

the time and place for every interview and medical examination; if the board is satisfied that the appellant is unable to travel, the place shall be the appellant's place of residence.

(3) The appellant shall attend at the time and place appointed for any interview and medical examination by the board or any member of the board or any person appointed by the board for that purpose.

(4) If—

- (a) the appellant fails to comply with sub-paragraph (3), and
- (b) the board is not satisfied that there was reasonable cause for the failure,

the board may dispense with the interview required by paragraph 4(1)(a) or, as the case may be, with any further interview, and may decide the appeal on such information as is then available.

(5) Any interview under this paragraph may be attended by persons appointed for the purpose by the fire and rescue authority or by the appellant or by each of them.

5.—(1) Where either party to the appeal intends to submit written evidence or a written statement at an interview held under paragraph 4, the party shall, subject to sub-paragraph (2), submit it to the board and to the other party not less than 7 days before the date appointed for the interview.

(2) Where any written evidence or statement has been submitted under sub-paragraph (1) less than 9 days before the date appointed for the interview, any written evidence or statement in response may be submitted by the other party to the board and the party submitting the first-mentioned evidence or statement at any time up to, and including, that date.

(3) Where any written evidence or statement is submitted in contravention of sub-paragraph (1), the board may postpone the date appointed for the interview and require the party who submitted the evidence or statement to pay such reasonable costs of the board and of the other party as arise from the adjournment.

6. The board shall supply the Secretary of State with a written report of its decision on the relevant medical issues and the Secretary of State shall supply a copy of the report to the appellant and to the fire and rescue authority.

7.—(1) There shall be paid to the board—

- (a) such fees as are determined in accordance with arrangements made by the Secretary of State, or
- (b) where no such arrangements have been made, such fees and allowances as the Secretary of State may from time to time determine

(2) Any fees and allowances payable to the board under sub-paragraph (1) shall—

- (a) be paid by the fire and rescue authority, and
- (b) be treated for the purposes of paragraph 8 as part of the fire and rescue authority's expenses.

8.—(1) Subject to paragraph 5(3) and sub-paragraphs (2) to (5), the expenses of each party to the appeal shall be borne by that party.

(2) Where the board—

- (a) decides in favour of the fire and rescue authority, and
- (b) reports that in its opinion the appeal was frivolous, vexatious or manifestly ill-founded,

the fire and rescue authority may require the appellant to pay them such sum not exceeding the amount of the fees and allowances payable to the member of the board appointed under paragraph 2A(2), as they think fit.

(2A) Where the appellant gives notice to the board of withdrawing the appeal within a period of 21 working days prior to the date appointed for an interview or medical examination by the board under paragraph 4(2), the fire and rescue authority may require the appellant to pay such sum as they think fit, not exceeding the board's total fees and allowances under paragraph 7(1).

(3) Where the board—

- (a) decides in favour of the appellant, and
- (b) does not otherwise direct,

the fire and rescue 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.

(2) For the purposes of sub-paragraphs (2) and (3) any question arising as to whether the board's decision is in favour of the fire and rescue authority or of the appellant shall be decided by the board, 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 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) or a retired employee of a fire and rescue authority, other than the authority by whom the appellant is or was employed, who immediately before his retirement had a role not lower than Area Manager A 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 an authorised advocate as defined in section 119 of the Courts and Legal Services Act 1990(a), 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 omitted by S.I. 2006/1810]

(a) 1990 c.41.

SCHEDULE 11

SPECIAL CASES

PART I

SPOUSE'S AWARDS

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

$$A/3 + B/6$$

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 or civil partner'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—

$$(C \times D)/60 + (C \times E)/30$$

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

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

- (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

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.

PART III

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.

PART IV

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 or civil partner 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 surviving spouse or civil partner 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 benefit or retirement pension payable to the surviving spouse or civil partner 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

(a) 1975 c.14, 1975 c.60.

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

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(a), Part II of the Local Government Act 1958(b) or section 85 of the London Government Act 1963(c), 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.

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

(a) 1933 c.51.
(b) 1958 c.55.
(c) 1963 c.33.

- (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

Part M

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
- (b) does not mean that the provisions of this Scheme apply to cases to which the corresponding 1973 provisions did not apply by virtue of transitional provision made in connection with the commencement of any of the Part I Orders.

2.—(1) Where—

- (a) a provision of this Scheme ("the new provision") re-enacts a 1973 provision with any modification, and
- (b) a person to whom a protected benefit was being paid or might become payable is placed in a worse position than he would have been in if the 1973 provision had continued to have effect,

he may, by giving written notice within 3 months after 1st March 1992 to the fire authority liable or prospectively liable for payment of the benefit, elect that the new provision is to apply in relation to the benefit as if it had re-enacted the 1973 provision without modification.

(2) A protected benefit is one paid, or capable of becoming payable, to or in respect of a person who before 1st March 1992 ceased to be a member of a brigade or died.

3.—(1) The revocation by article 2(1) of the 1992 Order of a transitional provision relating to the coming into force of a 1973 provision re-enacted in this Scheme does not affect the operation of that transitional provision, so far as it remains capable of having effect, in relation to the provision as re-enacted.

(2) The revocation by article 2(1) of the 1992 Order of the Part I Orders and the orders specified in Part II of Schedule 1 to the 1992 Order (“the Part II Orders”) does not affect—

- (a) the previous operation, or
- (b) so far as they remain capable of having effect, the operation,

of the savings subject to which the Part II Orders were previously revoked or, in relation to provisions that were given continued effect by those savings, of the Part I Orders and the Part II Orders in so far as they varied those provisions.

4. Any document made, served or issued after 29th February 1992 which includes a reference to a 1973 provision is to be construed, except so far as a contrary intention appears, as referring or, as the context may require, including a reference to the corresponding provision of this Scheme.