

1979 No. 88

FIRE SERVICES

Firemen's Pension Scheme (Amendment) Order (Northern Ireland) 1979

Made 26th March 1979

Coming into operation 1st May 1979

The Department of the Environment in exercise of the powers conferred by Section 17 of the Fire Services Act (Northern Ireland) 1969(a) and now vested in it(b) and of every other power enabling it in that behalf and with the approval of the Department of the Civil Service(c) hereby makes the following Order:

Citation and commencement

1. This Order may be cited as the Firemen's Pension Scheme (Amendment) Order (Northern Ireland) 1979 and shall come into operation on 1st May 1979.

Interpretation

2. In this Order any reference to the Scheme of 1973 is a reference to the Firemen's Pension Scheme (Northern Ireland) 1973 as set out in Appendix 2 to the Firemen's Pension Scheme Order (Northern Ireland) 1973(d).

Amendment of the Scheme of 1973

3.—(1) Subject to the provisions of paragraphs (2), (3) and (4) the Scheme of 1973 shall be amended in the manner specified in Schedules 1 and 2 which shall take effect as provided in Article 4.

(2) Nothing in paragraphs 7 and 13 of Part II of Schedule 1 shall affect the operation of Article 65 of the Scheme of 1973 and Schedule 7 thereto in relation to a regular fireman in respect of whom a liability to pay a transfer value under the said Article 65 arose before 1st January 1974.

(3) Nothing in paragraph 13 of Part II of Schedule 1 and paragraph 2 of Part III of Schedule 1 shall affect the operation of Schedules 5 and 7 to the Scheme of 1973 for the purposes of Article 44(4) in relation to a regular fireman who has rejoined or, as the case may be, joined the brigade before 1st May 1979.

(4) Where an award to or in respect of a regular fireman who ceased to be such before 1st May 1979 is, or may become, payable to any person and that person is placed in a worse position than he would have been if this Order had not been made, then, if, before 1st November 1979 notice in writing is given by or on behalf of that person to the Authority, so electing, the Scheme of 1973 shall have effect in relation to that person's award as if this Order had not been made.

(a) 1969 c. 13 (N.I.) as amended by S.I. 1973/601 (N.I. 9) Article 7

(b) S.R. & O. (N.I.) 1973 No. 504 Article 5(b) (II, p. 2992)

(c) Formerly a function of the Department of Finance S.R. 1976 No. 281 (II, p. 1339)

(d) S.R. & O. (N.I.) 1973 No. 393 (II, p. 2187) as amended by S.R. 1975 No. 358 (II, p. 1767), 1976 No. 216 (I, p. 997), 1978 No. 24 and 1978 No. 100

Dates from which amendments take effect

4. The amendments referred to in Article 3 shall take effect as follows—
- (a) for the purposes of Part I of Schedule 1 and Part I of Schedule 2 as from 1st October 1973;
 - (b) for the purposes of Part II of Schedule 1 as from 1st January 1974;
 - (c) for the purposes of Part III of Schedule 1 as from 1st May 1979;
 - (d) for the purposes of Part II of Schedule 2 as from 6th April 1975;
 - (e) for the purposes of Part III of Schedule 2 and subject to the transitional provisions of Part IV of Schedule 2, as from 6th April 1978.

Sealed with the Official Seal of the Department of the Environment for Northern Ireland on 26th March 1979.

(L.S.)

E. A. Simpson

Assistant Secretary

The Department of the Civil Service hereby approves the foregoing Order.

Sealed with the Official Seal of the Department of the Civil Service for Northern Ireland on 23rd March 1979.

(L.S.)

J. Armstrong

Assistant Secretary

SCHEDULE 1

Transfer Arrangements

PART I

Amendments to the Scheme of 1973 taking effect from 1st October 1973

1. For paragraph (1) of Article 40 there shall be substituted the following paragraph—

“(1) Where a regular fireman retires from the brigade in pursuance of a written notice to the Authority of his intention to retire for the purpose of joining a brigade maintained under the Fire Services Act 1947(e), then, notwithstanding anything in Part II of this Scheme, he shall not, on the occasion of that retirement, be entitled to an award under that Part.”.

2.—(1) At the end of Article 53(4) there shall be added the following proviso—

“Provided that nothing in this paragraph shall affect the application of Article 44—

- (i) where the fireman retires or has retired as mentioned in Article 40(1), or
- (ii) on or after 1st January 1974 in the case of such a fireman as is mentioned in Article 44(8) except to the extent that a repayment would fall to be made to him under that paragraph.”.

(2) Any agreement to the reduction of pension, given for the purposes of Article 53(4) before 1st May 1979 shall be treated for the purposes of the Scheme of 1973 as though it had never been given if it is rendered unnecessary by paragraph (1).

3. For paragraph 1(2) of Part II of Schedule 2 there shall be substituted the following paragraph—

“(2) In this Part “pre-1972 pensionable service” means the pensionable service the husband was entitled to reckon otherwise than by virtue of—

- (a) service as a regular fireman on or after 1st April 1972; or
- (b) Article 44 in the case of a man who retires or retired otherwise than as mentioned in Article 40(1), where there are satisfied—
 - (i) on or after 1st October 1973 the conditions specified in Article 44(1) or (4), or
 - (ii) on or after 1st January 1974, the condition specified in Article 44(1) as it has effect by virtue of Article 44(8),
 as the case may be.”.

4. For paragraph 4(2)(b) of Part I of Schedule 3 there shall be substituted the following paragraph—

“(b) an amount calculated as aforesaid but by reference only to the father’s pre-1972 pensionable service, that is to say, the pensionable service he was entitled to reckon otherwise than by virtue of—

- (i) service as a regular fireman on or after 1st April 1972, or
- (ii) Article 44 in the case of a man who retires or retired otherwise than as mentioned in Article 40(1), where there are satisfied—
 - (a) on or after 1st October 1973, the conditions specified in Article 44(1) or (4), or
 - (b) on or after 1st January 1974, the conditions specified in Article 44(1) as it has effect by virtue of Article 44(8),
 as the case may be.”.

SCHEDULE 1

PART II

Amendments to the Scheme of 1973 taking effect from 1st January 1974

1. At the beginning of Article 1(2) there shall be inserted the words "Save as provided in Article 65A(3),".

2. For paragraph (3) of Article 40 there shall be substituted the following paragraph—

"(3) Where an award under Article 12(4) ceases to be repayable under paragraph (2) and the transfer value is paid otherwise than in accordance with this Scheme there shall continue to be payable so much of the award as is unpaid which—

- (a) represents a return of such additional or further payments by way of contributions or lump sum as are mentioned in Articles 51, 52 and 53, and
- (b) would not have been payable had he paid pension contributions at a rate related to 5 per cent of his pensionable pay."

3.—(1) In paragraph (1)(a) of Article 44 the words "or with a deferred pension which he has relinquished under Article 14(2)" shall be omitted.

(2) At the beginning of paragraphs (3) and (4) respectively of Article 44 there shall be inserted the words "subject to Article 53(4)".

(3) At the end of Article 44 there shall be added the following paragraph—

"(8) Where a regular fireman retires or has retired from the brigade with a deferred pension which he has relinquished under Article 12(2) paragraph (1) shall have effect as though

- (a) he is retiring or has retired without a pension, and
- (b) the words "within 12 months of so retiring and" in sub-paragraph (b) were omitted,

and where, immediately before retiring he is or, as the case may be, was making such additional or further payments by way of contributions as are mentioned in paragraph (2)(a) the amount paid by way of such contributions shall be repaid to him by the Authority and he shall be deemed neither to have paid or elected to pay such contributions."

4. After Article 44 there shall be inserted the following Article—

"Previous service reckonable under current interchange arrangements

44A.—(1) Save as provided in paragraph (2), this Article shall apply to a regular fireman—

- (a) subject to paragraph (5) who before becoming a regular fireman was in service or employment by virtue of which he was subject to superannuation arrangements in pursuance of which a transfer value may be paid to the Authority (such service or employment and such superannuation arrangements are hereafter in this Article and in Schedule 7 referred to, respectively as "former service" and "former superannuation arrangements");
- (b) subject to paragraph (3), who last became a regular fireman on or after 1st April 1972, and
- (c) in respect of whom a transfer value relating to his former service has, in pursuance of his former superannuation arrangements, been paid to the Authority.

(2) This Article shall not apply in the case of a regular fireman who last became such before 1st May 1979 if such a transfer value as is mentioned in paragraph (1)(c) was received in his case before 1st January 1974.

(3) If the Authority so determine in the case of a particular regular fireman who last became such on or after 5th July 1948 but before 1st April 1972, this Article shall have effect as if paragraph (1)(b) were omitted.

(4) There shall be reckonable by a regular fireman to whom this Article applies, in respect of his former service, a period of pensionable service calculated in accordance with Parts II and III of Schedule 7.

(5) Notwithstanding anything in this Article, the provisions thereof shall not apply where the former service was service as a regular fireman and the regular fireman concerned is entitled to reckon pensionable service under Article 44.”.

5. In Article 47(1) after the words “Articles 44” there shall be inserted the words “44A and”.

6. For Article 65 there shall be substituted the following Article—

“Payment of Transfer Values between Fire Authorities

65.—(1) Where a regular fireman retires or has retired from the brigade and after again becoming such a fireman in a brigade maintained under the Fire Services Act 1947, becomes entitled under Article 44 to reckon as pensionable service the period of pensionable service he was entitled to reckon on retiring the Authority shall pay to the fire authority maintaining the latter brigade a sum by way of transfer value calculated in accordance with Parts I and III of Schedule 7.

(2) Where previous service is reckonable under Article 44(4) and the person concerned last became a regular fireman before 1st May 1979 paragraph (1) shall have effect as if it authorised but did not require the payment of a transfer value.”.

7. After Article 65 there shall be inserted the following Article—

“Payment of Transfer Values under interchange arrangements

65A.—(1) This Article shall apply to a regular fireman—

(a) subject to paragraph (3), who retires or who has retired on or after 1st April 1972:

Provided that where he retired before 1st May 1979 a transfer value, calculated otherwise than in accordance with this Scheme, has not been paid before that date;

(b) who subsequently, enters or entered service or employment, otherwise than as a regular fireman hereafter in this Article referred to as “new service”, by virtue of which he is subject to superannuation arrangements;

(c) who—

(i) was not entitled to a pension on retiring from service as a regular fireman, or

(ii) if so entitled, has not received any payment in respect of the pension;

(d) who—

(i) has not received a return of pension contributions or a gratuity on retiring from his former brigade, or

(ii) if he has received such an award on retiring has entered the new service within 12 months of retiring or within such longer period as the fire authority maintaining his former brigade may allow in the circumstances and has, within the period mentioned in sub-paragraph (e) paid to that authority an amount equal to the said award;

(e) who, within 6 months of his entering the new service or within 6 months of 1st May 1979, whichever period last expires, or within such longer period as the Authority may allow in the circumstances of a particular case, has given notice in writing to the fire authority maintaining his former brigade of his desire that this Article should apply in his case; and

(f) who, in his new service is, or subject to the payment of a transfer value would be entitled to reckon service for superannuation purposes by virtue of his service as a member of a fire brigade,

(2) Where this Article applies the Authority may pay a transfer value calculated in accordance with Parts I and III of Schedule 7 to the authority or person empowered to receive such payments for the purposes of the superannuation arrangements applicable to the new service and shall so pay such a transfer value where those superannuation arrangements—

- (a) are contained in a public general Act of Parliament or are made under such an Act by a Minister of the Crown; or
- (b) are contained in a public general Act of the Parliament of Northern Ireland or Measure of the Northern Ireland Assembly or are made under such an Act or Measure 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 contained in a retirement benefits scheme approved under Chapter II of Part II of the Finance Act 1970(f) or section 222 of the Income and Corporation Taxes Act 1970(g); or
- (d) provide for the purposes thereof for a superannuation fund which is wholly approved under section 208 of the Income and Corporation Taxes Act 1970; or
- (e) provide, in the event of the regular fireman again becoming such in his former brigade, for the payment of a transfer value which the Authority are satisfied would be calculated in like manner as under any superannuation arrangements contained in, or made by a Minister of the Crown under, a public general Act of Parliament.

(3) If the Authority so determine in the case of a particular regular fireman—

- (a) who retired on or after the 5th July 1948 but before 1st April 1972, and
- (b) in whose case a transfer value has not been paid,

this Article shall have effect as if paragraph (1)(a) were omitted and the amounts required to be paid under paragraph (1)(d)(ii) were increased by an amount equal to compound interest thereon at the rate of 6 per cent per annum, calculated with yearly rests, in respect of the period before 1st January 1974 beginning with the date the fireman received his gratuity or award by way of repayment of aggregate contributions.”

8. At the end of paragraph 2 of Part VI of Schedule 1 there shall be added the words “so, however, that the pension shall not exceed 40 sixtieths of his average pensionable pay.”

9.—(1) After paragraph 2(1)(b) of Part VIII of Schedule 1 there shall be inserted the following—

“or

(c) by virtue of Article 44A;”.

(2) In paragraph 3(1) of Part VIII after the words “1st April 1972” there shall be inserted the words “or by virtue of Article 44A;”.

10. At the end of paragraph 1(2) of Part II of Schedule 2 as amended by paragraph 3 of Part I of this Schedule there shall be added the following—

“or

(c) Article 44A.”.

(f) 1970 c. 24

(g) 1970 c. 10

11.—(1) In Part IV of Schedule 2

(a) In paragraph 1(1) after sub-paragraph (a) there shall be inserted the following sub-paragraph—

“(aa) his pensionable service reckonable by virtue of Article 44A;”.

(b) In paragraph 1(2)(b) for the words “sub-paragraph (1)(a) and (b)” there shall be substituted the words “sub-paragraph 1(a), (aa) and (b)”.

(c) In paragraph 2(1) the words “and 4” shall be deleted.

12. At the end of paragraph 4(2)(b) of Part I of Schedule 3 as amended by paragraph 4 of Part I of this Schedule there shall be added the following—

“or

(iii) Article 44A.”.

13. For Schedule 7 (Transfer Values) there shall be substituted the following Schedule—

“SCHEDULE 7

Transfer and Interchange Arrangements

PART I

Transfer value payable by the Authority under Article 65 or 65A

1.—(1) A transfer value payable by the Authority under Article 65 or 65A in respect of a regular fireman shall be calculated in accordance with this Part and the Table set out in Part III by reference to—

- (a) his age in years on ceasing to be a member of his former brigade;
- (b) his notional deferred pension, that is to say the deferred pension to which he would have been entitled had he, on so ceasing, been entitled to such a pension, and any reduction therein in accordance with Part VII of Schedule 1;
- (c) in the case of a man, his widow's notional accrued pension, that is to say the widow's accrued pension to which, on the assumption aforesaid, his widow would become entitled were he to die while entitled to the deferred pension leaving a widow entitled to an accrued pension; and
- (d) in the case of a regular fireman who had undertaken to make payments by way of regular instalments in accordance with Schedule 4, the payments not completed before he ceased to be a member of his former brigade, and any reference in this Part to the fireman's notional deferred pension or widow's notional accrued pension shall be construed accordingly.

(2) For the purposes of calculating a widow's notional accrued pension in a case in which the proportion mentioned in paragraph 1(4) of Part IV of Schedule 2 exceeds the whole, that proportion shall be taken to be the whole.

(3) In this Part any reference to the Table is a reference to the Table set out in Part III and any reference to the appropriate factor specified in a column of the Table is a reference to the factor specified in the column in question in relation to the fireman's age within the meaning of sub-paragraph (1)(a).

(4) In this Part any reference to a fireman's former brigade is a reference to the brigade maintained by the fire authority by whom the transfer value is payable.

2.—(1) The annual amount of the fireman's notional deferred pension, disregarding any reduction therein at insured pensionable age, shall be multiplied by the appropriate factor specified in the second column of the Table or, in the case of a woman, in the fourth column thereof.

(2) The said product shall be reduced in accordance with sub-paragraph (3)—

- (a) in the case of a fireman other than one who, immediately before he ceased to be a member of his former brigade, was paying pension contributions at the rate of 1p less than the appropriate percentage of his pensionable pay;

- (b) in the case of a fireman entitled to reckon pensionable service, immediately before he ceased to be a member of his former brigade by virtue of a participating period of relevant employment.
- (3) The annual amount by which the fireman's notional deferred pension would fall to be reduced—
- (a) under paragraph 1 of Part VII of Schedule 1 in a case in which sub-paragraph (2)(a) applies, and
- (b) under paragraphs 2 and 3 of the said Part VII, in a case in which sub-paragraph (2)(b) applies,
- shall be multiplied by the appropriate factor specified in the third column of the Table, or in the case of a woman, in the fifth column thereof; and the product under sub-paragraph (1) shall be reduced by the resulting product.
- (4) For the purposes of sub-paragraph (2)(b) and of the provisions applied by sub-paragraph (3)(b) a period shall be treated as a participating period of relevant employment notwithstanding that a payment in lieu of contributions only fell to be made after the fireman ceased to be a member of his former brigade.
- (5) The product under sub-paragraph (1), subject to any reduction under sub-paragraphs (2) and (3), is in paragraph 5 referred to as the basic element of the transfer value.

3.—(1) In the case of a man the annual amount of the fireman's widow's notional accrued pension, disregarding paragraph 3 of Part IV of Schedule 4, shall be multiplied by the factor 4.

(2) The said product is in paragraph 5 referred to as the widow's element of the transfer value.

4. For the purpose of calculating a transfer value payable as mentioned in paragraph 1, paragraph 1 of Part VI of Schedule 1 shall apply as if references to the fireman's average pensionable pay are references to his average pensionable pay immediately before he ceased to serve except that in the case of a transfer value which falls to be paid under Articles 65 or 65A(2)(a) or (b) no account shall be taken of any increase in pay granted after the transfer value has been paid.

5. Subject to paragraphs 6, 7, 8 and 9 the transfer value shall be of an amount—

- (a) in the case of a man equal to the sum of the basic element calculated in accordance with paragraph 2 and the widow's element calculated in accordance with paragraph 3;
- (b) in the case of a woman, equal to the basic element calculated in accordance with paragraph 2.

6.—(1) This paragraph shall apply in the case of a fireman who had undertaken to make payments by regular instalments in accordance with Schedule 4 but had not completed those payments before he ceased to be a member of his former brigade and the payments not completed before he so ceased are, in this paragraph, referred to as the outstanding instalments.

(2) The transfer value shall be reduced by the actuarial equivalent of the outstanding instalments calculated, in accordance with tables prepared by the Government Actuary, by reference to the amount of each instalment, the interval at which instalments were payable and the number of outstanding instalments.

7.—(1) This paragraph shall apply where a transfer value is payable in respect of a fireman—

- (a) in whose case Schedule 10 has effect by reason that he ceased to serve as a member of his former brigade before 1st May 1975; and
- (b) who was entitled to reckon less than a year's pensionable service immediately before he ceased so to serve.

(2) There shall be calculated the transfer value which would be payable if the fireman were so entitled to reckon a year's pensionable service and the transfer value payable shall be calculated proportionately by reference to the proportion of a year which he was so entitled to reckon as pensionable service.

8.—(1) This paragraph shall apply where a transfer value is not paid within 12 months of the fireman ceasing to be a member of his former brigade.

(2) The transfer value shall be increased by an amount equal to compound interest thereon at the rate of 6 per cent per annum, with yearly rests, in respect of the period beginning with the date he ceased to be a member of his former brigade and ending with the date of payment of the transfer value, reckoned in completed years.

9.—(1) This paragraph shall apply where a transfer value payable under Article 65 is so payable in respect of previous service reckonable under Article 44.

(2) Where this paragraph applies—

(a) the widow's notional accrued pension referred to in paragraph 1(1)(c) shall be calculated in accordance with this Scheme as if the following provisions were omitted from paragraph 1 of Part IV of Schedule 2, namely, sub-paragraphs (1)(c) and (d) and (2)(c) and (d) except that, in the case of such a regular fireman as is mentioned in Article 44(8) to whom a repayment falls to be made under that provision sub-paragraphs (1)(d) and (2)(d) shall not be omitted;

(b) the transfer value shall be reduced by an amount equal to the sum payable under Article 44(1), if any, or, as the case may be, under Article 44(4) except that where a sum which is payable under Article 44(1) would have been of a greater amount but for Article 63(8) the transfer value shall be reduced by that greater amount.

10.—(1) This paragraph shall apply where a transfer value payable under Article 65A is so payable by virtue of Article 65A(3) in respect of a regular fireman who retired before 1st April 1972.

(2) Where this paragraph applies—

(a) the notional pensions referred to in paragraph 1(1)(b) and (c) shall be calculated in accordance with this Scheme but by reference to the regular fireman's average pensionable pay (or, where he retired before 10th July 1956, pensionable pay) within the meaning of the Pension Scheme in force at the time of his retirement;

(b) where immediately before his retirement the fireman was paying pension contributions at a rate related to 5 per cent of his pensionable pay his widow's notional accrued pension shall not be less than would have been the widow's ordinary pension which would have been payable to his widow under the Pension Scheme in force at the time of his retirement had he died when he retired in circumstances entitling her to such an award calculated however at the flat rate specified in Scheme 1 of the appropriate provision of that Scheme (as then in force);

(c) where immediately before his retirement the fireman was paying pension contributions at a rate related to 6 per cent of his pensionable pay his widow's notional accrued pension shall be calculated as if, at the time of his retirement—

(i) Article 51 of this Order was in force in place of Article 42 of the Firemen's Pension Scheme Order (Northern Ireland) 1971(h), and

(ii) paragraph 2 of Part VIII of Schedule 1 was in force in place of the corresponding provisions of the Pension Scheme in force at the time of his retirement,

and accordingly any additional contributions that he may have paid or any

deduction that may have fallen to be made under the said Article 42 or corresponding provisions shall be deemed to have been paid or fall to be made under the said Article 51 or the said paragraph 2, as the case may be;

- (d) the reference in paragraph 6 to Schedule 4 shall be construed as a reference to the corresponding provision of that previous Scheme,

and, without prejudice to the foregoing provisions of this paragraph, this Schedule shall have effect subject to any necessary modifications.

PART II

Pensionable service reckonable under Article 44A on receipt of transfer value by the Authority

1.—(1) The period of pensionable service reckonable by a regular fireman under Article 44A by virtue of the receipt of a transfer value by the Authority shall be calculated in accordance with this Part and the Table set out in Part III by reference to—

- (a) the amount of the transfer value and of any increase therein by way of interest subject, however, to sub-paragraph (4);
- (b) his age in years at the date mentioned in sub-paragraph (2), (3) or (4), whichever applies in his case;
- (c) his pensionable emoluments within the meaning of the sub-paragraph in question; and
- (d) the provisions of this Scheme relating to reduction of pension at insured pensionable age;

and any reference in this Part to the fireman's age or pensionable emoluments shall be construed accordingly.

- (2) Subject to sub-paragraph (4), this sub-paragraph shall apply where—

- (a) by virtue of his former service the fireman was subject to superannuation arrangements which—

- (i) were contained in a public general Act of Parliament or were made under such an Act by a Minister of the Crown, or
- (ii) were contained in a public general Act of Parliament of Northern Ireland or Measure of the Northern Ireland Assembly or were made under such an Act or Measure by a Minister of the Crown (including a Northern Ireland Minister) or by a Northern Ireland ministry, department or head of department, or

(b) the Authority are satisfied that the transfer value was calculated in like manner as under some such superannuation arrangements as aforesaid, and, in such case, the fireman's age for the purposes of sub-paragraph (1)(b) shall be his age on ceasing to be in his former service and his pensionable emoluments for the purposes of sub-paragraph (1)(c) shall be the annual value of the emoluments (including averaged emoluments) in relation to which the transfer value was calculated or would have been calculated, if part thereof had not been disregarded on account of provisions included in the superannuation arrangements in connection with retirement pension under section 28 of the Social Security (Northern Ireland) Act 1975(i) or section 29 of the National Insurance Act (Northern Ireland) 1966(j).

(3) Subject to sub-paragraph (4), in a case in which sub-paragraph (2) does not apply, the fireman's age for the purposes of sub-paragraph (1)(b) and his pensionable emoluments for the purposes of sub-paragraph (1)(c) shall be, respectively, his age and his annual pensionable pay as a regular fireman—

- (a) on his becoming such, where the transfer value is received within 12 months of his ceasing to be in his former service, or

(i) 1975 c. 15

(j) 1966 c. 6 (N.I.)

(b) on the date the transfer value is received, where it is received later.

(4) Where pensionable service reckonable under Article 44A is so reckonable by virtue of Article 44A(3) in the case of a regular fireman who became such before 1st April 1972, then, notwithstanding the preceding provisions of this paragraph—

(a) if, before or within 3 months of receiving the transfer value the Authority are notified that, inclusive of any increase by way of interest, it would have been of a different amount, specified by the payor thereof, had it been calculated and paid on 1st January 1974, then, for the purposes of this Schedule, the transfer value shall be treated as though it were of the amount so specified;

(b) the fireman's age for the purposes of sub-paragraph (1)(b) shall be his age on 1st January 1974, and

(c) his pensionable emoluments for the purposes of sub-paragraph (1)(c) shall be his annual pensionable pay as a regular fireman on 1st January 1974 or, if he was not serving as such on that date, on the date on which he first thereafter became a regular fireman.

(5) In this Part any reference to the Table is a reference to the Table set out in Part III and any reference to the appropriate factor specified in a column of the Table is a reference to the factor specified in the column in question in relation to the fireman's age within the meaning of sub-paragraph (1)(b).

(6) In this Part any reference to a fireman's former service is a reference to the service in respect of which the transfer value is paid.

2.—(1) Where in a case to which paragraph 1(2) applies the transfer value was increased by the inclusion therein of interest calculated from the date when the fireman ceased to be in his former service, it shall be adjusted by the deduction of that interest.

(2) Where in any case any such pension as is mentioned in paragraph 2 of Part VII of Schedule 1 as may become payable to the fireman would fall to be abated in accordance with that paragraph, the annual amount of that abatement shall be calculated and multiplied by the appropriate factor specified in the third column of the Table or, in the case of a woman, in the fifth column thereof, and the transfer value shall be adjusted by the addition of that product.

(3) The transfer value, subject to any such adjustment as aforesaid is in paragraph 4 referred to as the adjusted transfer value.

3.—(1) The fireman's pensionable emoluments shall be multiplied by a factor 2.00 greater than the appropriate factor specified in the second column of the Table or, in the case of a woman, by the appropriate factor specified in the fourth column thereof.

(2) The said product shall be divided by 45.

(3) Where any such pension as is mentioned in paragraph 1 of Part VII of Schedule 1 as may become payable to the fireman would fall to be reduced in accordance with that paragraph, the amount of the reduction for each year of service relevant for the purposes of that paragraph shall be multiplied by the appropriate factor specified in the third column of the Table or, in the case of a woman, in the fifth column thereof; and the quotient under sub-paragraph (2) shall be adjusted by the deduction of the said product.

(4) The quotient under sub-paragraph (2), subject to any such adjustment as aforesaid, is in paragraph 4 referred to as the divisor.

4. The adjusted transfer value calculated in accordance with paragraph 2 shall be divided by the divisor calculated in accordance with paragraph 3 and the quotient (including any fraction) shall be the number of years reckonable as pensionable service.

PART III

TABLE

<i>Age last birthday before date of cessation</i>	<i>Men</i>		<i>Women</i>	
	<i>Basic factor</i>	<i>N.I. factor</i>	<i>Basic factor</i>	<i>N.I. factor</i>
(1)	(2)	(3)	(4)	(5)
Less than 20	5.00	.25	7.00	.50
20	5.05	.25	7.05	.50
21	5.10	.25	7.10	.55
22	5.15	.30	7.15	.60
23	5.20	.30	7.20	.65
24	5.25	.30	7.25	.70
25	5.30	.35	7.35	.75
26	5.35	.40	7.40	.80
27	5.40	.40	7.45	.85
28	5.45	.45	7.50	.90
29	5.50	.50	7.55	.95
30	5.55	.50	7.65	1.05
31	5.60	.55	7.70	1.15
32	5.65	.60	7.80	1.25
33	5.70	.65	7.90	1.35
34	5.75	.70	7.95	1.45
35	5.80	.80	8.05	1.55
36	5.85	.90	8.15	1.65
37	5.90	1.00	8.25	1.75
38	5.95	1.10	8.35	1.85
39	6.00	1.20	8.45	1.95
40	6.05	1.30	8.55	2.10
41	6.10	1.40	8.65	2.25
42	6.15	1.50	8.75	2.45
43	6.20	1.60	8.85	2.65
44	6.25	1.70	8.95	2.90
45	6.30	1.80	9.05	3.15
46	6.40	1.90	9.15	3.40
47	6.50	2.00	9.25	3.70
48	6.60	2.20	9.35	4.00
49	6.70	2.40	9.45	4.35
50	6.80	2.60	9.55	4.75
51	6.90	2.90	9.65	5.15
52	7.10	3.20	9.80	5.60
53	7.30	3.50	9.95	6.10
54	7.50	3.80	10.10	6.65
55	7.70	4.20	10.30	7.25
56	8.00	4.60	10.50	7.95
57	8.30	5.00	10.75	8.75
58	8.60	5.40	11.05	9.65
59	9.00	5.80	11.40	10.65
60	9.50	6.30	11.75	11.75
61	9.50	6.80	11.75	11.75
62	9.50	7.40	11.75	11.75
63	9.50	8.10	11.75	11.75
64	9.50	9.00	11.75	11.75
65	9.50	9.50	11.75	11.75"

SCHEDULE 1

PART III

Amendments to the Scheme of 1973 taking effect from 1st May 1979

1. For paragraph 1(3) of Part IV of Schedule 2 there shall be substituted the following paragraph—

“(3) The proportion referred to in sub-paragraph (1)(c) or sub-paragraph (2)(c) shall be the proportion which the period for which the husband paid further contributions or, as the case may be, additional contributions, bore to the period by which the pensionable service he was entitled to reckon on the relevant date fell short of 25 years or, where that period is less than 5 years, to a period of 5 years, each period being reckoned in completed years and completed months.

In this sub-paragraph “the relevant date” means—

- (a) where the husband last served as a regular fireman before 1st May 1979, the date on which he made the election referred to in the sub-paragraph in question;
- (b) in any other case, the date from which the further contributions or, as the case may be, additional contributions were payable in pursuance of the election referred to in the sub-paragraph in question.”.

2. In paragraph 2 of Schedule 5 for the words “paragraphs 3, 4 and 5 of Schedule 7” there shall be substituted the words “paragraphs 2(2), (3) and (4) of Part I of Schedule 7”.

SCHEDULE 2

Contracting-out Arrangements

PART I

Amendments to the Scheme of 1973 taking effect from 1st October 1973

After Article 12 there shall be inserted the following Articles—

“Deferred pension where ill-health pension is cancelled

12A.—(1) This Article shall apply to a regular fireman who—

- (a) retired with an ill-health pension the unsecured portion of which is terminated under Article 14(2) on a date (“the date of termination”) falling on or after 1st October 1973 otherwise than on his rejoining the brigade, and
- (b) possesses the qualifications required by Article 12B(1).

(2) A regular fireman to whom this Article applies shall, as from the date of termination, be entitled to a deferred pension in accordance with the provisions of Article 12B(2).

Supplementary provisions about deferred pensions

12B.—(1) The qualifications referred to in Article 12A are that the regular fireman has service which satisfies one of the following conditions (such service is hereinafter referred to as qualifying service)—

- (a) his pensionable service is 5 years or more;
- (b) his pensionable service is less than 5 years but he has an earlier period of service as a regular fireman which does not count towards his pensionable service and the aggregate of that service and that period is 5 years or more;
- (c) his pensionable service is less than 5 years but is reckoned by virtue of service as a regular fireman and some other employment and the aggregate of that service and that employment is 5 years or more:

Provided that an earlier period of service shall not count as qualifying service for the purposes of sub-paragraph (b) if there is a break of more than one month between it and the later qualifying service.

(2) Where a fireman is entitled to a pension under Article 12A he shall be entitled to a deferred pension calculated in accordance with Part VI of Schedule 1, subject, however, to Parts VII and VIII of that Schedule; but no payment shall be made on account of the pension in respect of the period before he attains the age of 60 years, or, if he sooner becomes permanently disabled, before he becomes so disabled, or in respect of any period if he has relinquished his entitlement for the purpose of Article 44 by written notice to the Authority.”.

SCHEDULE 2

PART II

Amendments to the Scheme of 1973 taking effect from 6th April 1975

1. After Article 12B (inserted by Part I of this Schedule) there shall be inserted the following Article—

“Pension by way of equivalent benefit for certain regular firemen serving on 5th April 1975

12C.—(1) Subject to paragraph (2), this Article shall apply to a regular fireman who was serving as such on 5th April 1975 and ceases or has ceased to serve in circumstances—

- (a) which do not entitle him to a pension other than such as is mentioned in this Article,
- (b) in which no transfer value is payable or has been paid in respect of him under Article 65, and
- (c) in which no payment in lieu of contributions falls to be made or has been made.

(2) Where a regular fireman who was serving as such on 5th April 1975 ceases or has ceased to serve in circumstances in which a transfer value is payable in respect of him under Article 65A, this Article shall apply to him only if he satisfies the Authority that he is not entitled under any superannuation arrangements (including this Scheme) to a pension—

- (a) in the calculation of which account is taken of the service which would be taken into account in calculating a pension under this Article, and
- (b) which would be at least as favourable in his case as a pension under this Article.

(3) A regular fireman to whom this Article applies shall, on attaining insured pensionable age and, where appropriate, satisfying the Authority as mentioned in paragraph (2), be entitled to a pension which equals the graduated retirement benefit mentioned in Article 6(3).”.

2. In Article 13(1), after the words “ill-health pension” there shall be inserted the words “or while entitled to a deferred pension”. and the words “by way of adjustment of the amount of the pension” shall be omitted.

3. In Article 18(1)(b), after the words “deferred pension” there shall be inserted the words “or a pension under Article 12C”.

4. In Article 29(1)(b), after the words “deferred pension” there shall be inserted the words “or a pension under Article 12C”.

SCHEDULE 2

PART III

Amendments to the Scheme of 1973 taking effect from 6th April 1978

1. In Article 6 there shall be inserted after paragraph (5) the following paragraphs—

“(6) In this Scheme the following expressions shall have the meanings respectively which they have for the purposes of the Social Security Pensions (Northern Ireland) Order 1975(k)—

“contracted-out employment”;

“contracted-out scheme”;

“guaranteed minimum” and “guaranteed minimum pension”;

“contributions equivalent premium”.

(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 (Northern Ireland) Order 1975 dispensing with the payment of such a premium where its amount would be inconsiderable.

(8) In this Scheme any reference to insured pensionable age is a reference to the age of 65 years in the case of a man or 60 years in the case of a woman.

(9) 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 Health and Social Security as that minimum at that time.”

2. In Article 7, after paragraph (4) there shall be inserted the following paragraph—

“(5) For the purpose of this Scheme, the annual rate of a pension shall be determined as if there were $52\frac{1}{4}$ weeks in each year.”

3. For Article 12 there shall be substituted the following Article—

“Deferred pension and award where no transfer value and no other award is payable

12.—(1) This Article shall apply to a regular fireman who ceases or has ceased to be a member of the brigade in circumstances in which no transfer value is payable in respect of him and which do not entitle him to any award other than such as is mentioned in this Article or in Article 12C.

(2) A fireman to whom this Article applies who—

(a) possesses the qualifications required by Article 12B(1), and

(b) has not exercised the right of election under Article 12D shall, on ceasing to be a member of the brigade, be entitled to a deferred pension in accordance with the provisions of Article 12B(2).

(3) A fireman to whom this Article applies who does not possess the qualifications required by Article 12B(1) and who will not attain insured pensionable age before the end of the tax year in which he ceases or has ceased to be a member of the brigade, shall be entitled to an award by way of repayment of his aggregate contributions.”

4. In Article 12B (inserted by Part I of this Schedule)—

(a) in paragraph (1) for the words “Article 12A” there shall be substituted the words “Articles 12 and 12A”, and

(b) in paragraph (2) for the words "Article 12A" there shall be inserted the words "Article 12, 12A or 12D".

5. After Article 12C (inserted by Part II of this Schedule) there shall be inserted the following Article—

"Transitional award

12D.—(1) This Article applies to a regular fireman who qualifies for a deferred pension by virtue of service partly before 6th April 1978 and partly on or after that date and whose average annual pensionable pay has not exceeded £5,000 in any tax year.

(2) A regular fireman to whom this Article applies may, within 3 months of ceasing to be a member of the brigade, elect that Article 12 shall not apply in his case by notice in writing to the Authority.

(3) Where immediately before his death a regular fireman to whom this Article applies enjoyed, but had not exercised, the right of election conferred by paragraph (2) his widow may, by notice in writing given to the Authority within 3 months of his death, or within such longer period as the Authority may allow in the circumstances of the case, request that this Scheme should have effect as if he had exercised that right of election; and, in such a case, this Scheme shall so have effect.

(4) Where the right of election conferred by paragraph (2) has been exercised by a regular fireman or by his widow, the fireman shall not be granted a deferred pension under Article 12 but shall be entitled to an award under this Article.

(5) An award under this Article shall comprise—

- (a) an award by way of repayment of the fireman's aggregate contributions, excluding such contributions as are specified in paragraph (8), and
- (b) where his period of pensionable service is greater than the appropriate period of service, a deferred pension in accordance with the provisions of Article 12B(2) but disregarding that part of his period of pensionable service which is comprised in the appropriate period of service.

(6) The appropriate period of service referred to in paragraph (5) is—

- (a) in the case of a fireman who ceases to serve before he has attained the age of 26—
 - (i) whose contracted-out employment is less than 5 years, all his pensionable service, or
 - (ii) in any other case, his pensionable service before 6th April 1978; or
- (b) in the case of a fireman who has attained the age of 26 years when he ceases to serve—
 - (i) whose qualifying service, disregarding service before 6th April 1975 is less than 5 years, his pensionable service before 6th April 1978, or
 - (ii) in any other case, his pensionable service before 6th April 1975.

(7) Where pensionable service is reckonable by virtue of the receipt of a transfer value by the Authority, the amount of pensionable service performed before a certain date shall be deemed to be such as bears to the total pensionable service so reckonable the same proportion as the former service performed before that date bears to the total former service.

(8) The contributions excluded by paragraph (5)(a) are the contributions or analogous payments which were paid after the end of the appropriate period of service, except those—

- (a) paid to the Authority for the purpose of increasing benefit payable in respect of that period of service; or
- (b) specified, by the person responsible for the superannuation arrangements applicable to a previous period of service or employment, as having been paid for the purpose of increasing any benefit payable in respect

of that part of the previous service or employment by virtue of which the person concerned is entitled to reckon an appropriate period of service.”

6. In Article 13, for paragraph (2) there shall be substituted the following paragraph—

“(2) Where a regular fireman who is not entitled to a deferred pension under Article 12A does not resume service in his brigade before the expiration of a month from the termination, under Article 14, of the unsecured portion of his ill-health pension, then if the aggregate of—

- (a) the sums paid in respect of the pension;
- (b) the actuarial value of a pension beginning at insured pensionable age equal to his guaranteed minimum where, at the end of that month, he had a guaranteed minimum in relation to the pension provided by this Scheme; and
- (c) the actuarial value of the secured portion of the ill-health pension (in so far as it is payable under Article 14(4)),

is less than his aggregate contributions, there shall be paid to him the difference.”

7. In Article 16—

- (a) the words “or deferred pension” shall be omitted; and
- (b) at the end of the Article there shall be inserted the following proviso—
“Provided that where the pension of a regular fireman has been reduced under this Article, then if when he attains the age of 60 years the reduced pension is less than the amount of the deferred pension which would have been payable had he been granted such a pension on the date of his ceasing to serve, it shall be increased to that amount.”

8. After Article 17 there shall be inserted the following Article—

“17A.—(1) Where a regular fireman who has attained insured pensionable age is entitled to a pension which, together with any increase under the Pensions (Increase) Act (Northern Ireland) 1971⁽¹⁾ does not exceed £52 per annum, the Authority may, at their discretion, commute the pension for a gratuity.

(2) A gratuity under this Article shall be of such amount as is the actuarial equivalent of the pension, calculated from tables prepared by the Government Actuary.

(3) Where a regular fireman is entitled to more than one pension, those pensions shall be treated as one for the purposes of this Article.”

9. For Article 22 there shall be substituted the following Article—

“22.—(1) Where a widow is entitled to a pension which, together with any increase under the Pensions (Increase) Act (Northern Ireland) 1971, does not exceed £52 per annum, the Authority may, at their discretion, commute the pension for a gratuity.

(2) Where a widow is entitled to a pension on the death of her husband before he has attained insured pensionable age and the Authority are satisfied that there are sufficient reasons for granting her a gratuity in lieu of the part of the pension which exceeds her guaranteed minimum pension, they may, subject to the provisions of Article 36, in their discretion and with her consent, commute for a gratuity that part, or so much thereof as may be commuted without contravening Article 36.

(3) A gratuity under this Article shall be calculated in accordance with Part VI of Schedule 2.”

(1) 1971 c. 35 (N.I.)

10. In Article 23, there shall be inserted at the end of paragraph (1) the following—

“before the end of the tax year preceding that in which he would have attained insured pensionable age”.

11. After Article 23 there shall be inserted the following Article—

“23A.—(1) This Article shall apply to a widow of a regular fireman entitled to reckon less than 3 years’ pensionable service who, after the beginning of the tax year in which he attained, or would have attained, insured pensionable age—

(a) dies or has died while serving as such; or

(b) ceases or has ceased to serve as such.

(2) A widow to whom this Article applies shall, unless she is a widow to whom Article 19 applies, be entitled to an award comprising—

(a) in respect of the first 13 weeks following the husband’s death, a temporary pension of such amount as secures that, in respect of each such week, the aggregate amount of the payment under this subparagraph and of any children’s allowances payable in respect of the husband’s death is of the like amount as his pensionable pay or his pension, as the case may be, for a week immediately before he died, and

(b) thereafter a widow’s requisite benefit pension calculated in accordance with Part VIII of Schedule 2.

(3) If the capitalised value of the pension payable under paragraph (2)(b) to a widow whose husband died while serving as a regular fireman, as calculated by the Government Actuary, is less than the husband’s average annual pensionable pay, the widow shall be entitled to a gratuity equal to the amount by which the capitalised value of the pension aforesaid falls short of the husband’s average annual pensionable pay.”.

12. For Article 24, there shall be substituted the following Article—

“Limitation on award to widow with reference to date of marriage

24.—(1) A woman shall not be entitled to a widow’s award under Article 18, 19, 20, 21 or 23 if she marries her husband after he last ceased to serve as a regular fireman.

(2) A woman who but for paragraph (1) would be entitled to a widow’s award under Article 18, 19, 20 or 21 shall be entitled instead to a pension calculated in accordance with Part IX of Schedule 2.”.

13. For Article 25 there shall be substituted the following Article—

“25.—(1) Subject to Article 78A, where a woman was living apart from her husband at the time of his death, she shall not be entitled to a widow’s award under the preceding Articles except as provided in paragraph (3).

(2) A woman who but for paragraph (1) would be entitled to a widow’s award under Article 18, 19, 20 or 21 shall be entitled instead to a widow’s requisite benefit pension calculated in accordance with Part VIII of Schedule 2.

(3) Where the husband at the time of his death was

(a) making regular contributions for her support or to her for the support of her child; or

(b) liable to make such contributions by virtue of an agreement or of the order or decree of a competent court,

and the amount of such contributions which he was making or was liable to make was greater than the widow’s requisite benefit pension calculated in accordance with Part VIII of Schedule 2, she shall be entitled to a widow’s pension calculated in accordance with the relevant provisions of the preceding Articles payable at a rate not exceeding the rate at which the husband was making or was liable to make such contributions.

(4) The Authority may determine that a pension payable under paragraph (2) or (3) shall be payable for such period as they think fit, at such increased rate as they think fit not exceeding the rate at which it would be payable but for paragraph (1).

(5) Where a woman who was living apart from her husband at the time of his death would, but for paragraph (1), be entitled to a gratuity, the Authority may decide that the gratuity be paid in whole or in part, as they think fit.”

14. In Article 38, for paragraph (1) there shall be substituted the following paragraph—

“(1) A regular fireman shall not under Article 17 commute for a lump sum, nor under Article 37 allocate in favour of his wife or other dependant—

(a) such a portion of his pension that that pension becomes payable at a rate less than 2 thirds of the rate at which it would have been payable but for the provisions of the said Articles and of Part VIII of Schedule 1; or

(b) where the pension is a deferred pension and at the date on which it becomes payable he has a guaranteed minimum in relation to the pension provided by this Scheme, such a portion of his pension that it becomes payable at a rate which, including any increase under the Pensions (Increase) Act (Northern Ireland) 1971, is less than that minimum.”.

15. In Article 39, there shall be inserted at the end the following paragraph—

“(2) This Article does not apply to a pension under Article 78A.”.

16. In Article 40(3) (inserted by Part II of Schedule 1 to this Order), for the words “under Article 12(4)” there shall be substituted the words “by way of repayment of a fireman’s aggregate contributions”.

17. For Article 41 there shall be substituted the following Article—

“Withdrawal of pension on conviction of certain offences

41.—(1) This Article shall apply to a pension payable to or in respect of a member of the brigade.

(2) Subject to paragraph (5), the Authority may withdraw the pension, in whole or in part, and permanently or temporarily as they may specify, if the pensioner has been convicted of an offence mentioned in paragraph (3) and, in the case of a widow’s pension, that offence was committed after the death of the pensioner’s husband.

(3) The offences referred to in paragraph (2) are—

(a) an offence of treason;

(b) one or more offences under the Official Secrets Acts 1911 to 1939 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) Subject to paragraph (5), the Authority may withdraw the pension in whole or in part, and permanently or temporarily as they may specify, if the pensioner has been convicted of an offence committed in connection with his service as a member of the brigade which is certified by the Department 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.

(5) In the case of a pension to which this Article applies, other than an injury pension, the Authority in determining whether withdrawal should be permanent or temporary and affect a pension in whole or in part, may make different determinations in respect of the secured and unsecured portion of the pension; but the secured portion of such a pension shall not be withdrawn permanently and may only be withdrawn temporarily for a period

expiring before the pensioner attains insured pensionable age or for a period during which he is imprisoned or otherwise detained in legal custody.

(6) So much of any award as is or has been withdrawn under this Article or the Article which it replaces may, to such extent as the Authority at any time in their discretion think fit—

- (a) be applied by the Authority for the benefit of any dependant of the person to whom, but for its withdrawal, it would be payable;
- (b) be restored to that person.”.

18. In Article 44(8) (inserted by Part II of Schedule 1 to this Order) for the words “relinquished under Article 12(2)” there shall be substituted the words “relinquished under Article 12B(2)”.

19. In Article 44A (inserted by Part II of Schedule 1 to this Order) for paragraph (5) there shall be substituted the following paragraph—

“(5) Notwithstanding anything in this Article, the provisions thereof shall not apply—

- (a) where the former service was service as a regular fireman and the regular fireman concerned is entitled to reckon pensionable service under Article 44; or
- (b) where the fireman had a guaranteed minimum in relation to the pension provided by the former superannuation arrangements unless—
 - (i) those arrangements are of a kind mentioned in paragraph 1(2) of Part II of Schedule 7, or
 - (ii) that guaranteed minimum is no greater than a notional deferred pension calculated by reference to the pensionable service which, under Part II of Schedule 7, would be reckonable if the transfer value were paid.”.

20. Article 59 shall be omitted.

21. In Article 62(3) after the word “Authority” at the end of the proviso there shall be inserted the following—

“other than the discretion so vested by Article 41”.

22. In Article 63—

- (a) in paragraph (4), for the words “and, in particular, of Article 11 (injury pension) and of Article 12 (deferred pension)” there shall be substituted the words “in particular, those provisions relating to injury pensions and deferred pensions”; and
- (b) in paragraph (7) for the words “Article 12(4)” there shall be substituted the words “Article 12(3) or 12D(5)(a)”.

23. In Article 64—

(a) for paragraph (1) there shall be substituted the following paragraph—

“(1) Where a loss to the funds of the Authority has occurred as a result of fraud, theft or negligence committed by a regular fireman in connection with his employment and any sum is due from the Authority to him on account of a pension, the Authority may withhold that sum in whole or in part and on so doing shall furnish him with a certificate showing the amount withheld and the effect on the pension:

Provided that—

- (a) where the pension is an ordinary, ill-health or short service pension and the sum due on account thereof is in respect of a period beyond insured pensionable age, only so much of the sum as is due on account of the unsecured portion of the pension may be withheld;
- (b) the amount withheld from a pension, including the capital value of the amount withheld from annual payments, shall not exceed the amount of the loss;

- (c) no amount shall be withheld from such part of any pension as is attributable to service otherwise than as a member of the brigade; and
- (d) in the event of any dispute as to the amount of the loss, no amount shall be withheld unless the amount of the loss becomes enforceable under the order of a competent court.”;
- (b) in paragraph (5)(a), for the word “relative” there shall be substituted the word “dependant”; and
- (c) in paragraph 5(b), for the words “the age of 65 years” there shall be substituted the words “insured pensionable age”.

24. In Article 65A (inserted by Part II of Schedule 1 to this Order)—

- (a) after paragraph (1)(a) there shall be inserted the following paragraph—
“(aa) who has not attained insured pensionable age on the date of retirement.”;
- (b) after paragraph (3) there shall be inserted the following paragraph—
“(4) Notwithstanding anything in this Article, the provisions thereof shall not apply where a person has a guaranteed minimum in relation to the pension provided by this Scheme, unless—
(a) the new service is in a scheme which is a contracted-out scheme when the transfer value is paid; or
(b) a contributions equivalent premium has been paid in respect of him by the Authority and not repaid.”.

25. In Part XII, there shall be inserted before Article 79 the following Article—

“Contracting-out

78A.—(1) This Article shall apply if any employment becomes contracted-out employment by reference to this Scheme.

(2) Any entitlement to a pension under this Article shall not be reduced or extinguished under any other provision of this Scheme save that—

- (a) where that pension together with any increase under the Pensions (Increase) Act (Northern Ireland) 1971 does not exceed £52 per annum it may be commuted under Article 17A or 22;
- (b) where the person entitled to that pension has been convicted of—
(i) an offence of treason, or
(ii) one or more offences under the Official Secrets Acts 1911 to 1939 for which he has been sentenced on the same occasion to a term of imprisonment of, or to 2 or more consecutive terms amounting in the aggregate to, at least 10 years,

the pension may be withdrawn under Article 41(2).

(3) Where a widow is entitled to a pension under this Article and she remarries before her 60th birthday, her entitlement shall cease.

(4) Subject to paragraphs (5) and (6), if a person has a guaranteed minimum in relation to the pension provided by this Scheme—

- (a) he shall, subject to paragraph (8), be entitled from insured pensionable age to a pension equal to his guaranteed minimum, and
- (b) where he dies at any time and leaves a widow, then, unless his pension has been withdrawn under Article 41(2), she shall be entitled to a pension at a rate equal to one-half of his guaranteed minimum.

(5) Paragraph (4) shall not apply in relation to a person who has retired from service as a regular fireman and has entered other contracted-out employment if a transfer value has been paid under Article 65A in respect of him.

(6) Where a person is entitled to a pension under any other provision of this Scheme—

(a) a pension under paragraph (4) shall not be paid unless that person's pension calculated in accordance with that paragraph is greater than that other pension disregarding any secured portion; and

(b) where a pension under paragraph (4) is paid, that person shall receive only the secured portion, if any, of that other pension.

(7) In paragraph (6), references to a pension include any increase in that pension under the Pensions (Increase) Act (Northern Ireland) 1971 and where that paragraph applies to a person who is entitled to both an injury pension and either an ill-health, ordinary, short service or deferred pension, those pensions shall be treated as one for the purposes of that paragraph.

(8) No payments shall be made on account of the pension referred to in paragraph (4)(a) in respect of any period within 5 years of the fireman's attaining insured pensionable age during which—

(a) he has not ceased to serve as a regular fireman; or

(b) his pension is withdrawn, in whole or in part, in consequence of a decision of the Authority taken under Article 42 before he attained insured pensionable age.”

26. In Part IV of Schedule 1, after paragraph 2 there shall be inserted the following paragraph—

“3. Where the fireman ceased to serve after the beginning of the tax year in which he attains insured pensionable age, the gratuity calculated in accordance with the preceding provisions of this Part shall be reduced by an amount equal to the capitalised value, as calculated by the Government Actuary, of any pension paid to him under Article 78A.”

27. In Part VII of Schedule 1, for the words “age 65” in the heading and “age of 65 years” in paragraphs 1(1), 3(2) and 4(2), there shall be substituted the words “insured pensionable age”.

28. In Part I of Schedule 2, for paragraph 1 there shall be substituted the following paragraph—

“1. Subject to paragraph 2, a widow's ordinary pension shall be whichever is the greater of the 2 following pensions—

(a) a pension equal to one half of her husband's pension or notional pension referred to in paragraph 3;

(b) a widow's requisite benefit pension calculated in accordance with Part VIII.”

29. In Part IV of Schedule 2, for paragraph 3 there shall be substituted the following paragraph—

“3.—(1) Where in respect of any period a widow so elects, then the annual rate of her accrued pension in respect of that period shall be, if her husband at the time when he ceased to be a regular fireman—

(a) held a rank not higher than that of sub-officer, £353.69 a year;

(b) held a rank higher than that of sub-officer but not higher than that of divisional officer (Grade I), £460.63 a year;

(c) held a rank higher than divisional officer (Grade I) £552.97 a year;

Provided that this sub-paragraph shall not apply to the widow of a regular fireman where the pensionable service which reckoned for the purpose of calculating his deferred pension was less than 5 years, unless he was entitled to reckon pensionable service by virtue of the whole of his qualifying service.

(2) In the case of a widow of a regular fireman who ceased to serve on or after 6th April 1975 and would, had he continued to serve until the age of compulsory retirement specified in Article 80 in relation to his rank at the time when he ceased to serve, have become entitled to reckon at least 10 years' pensionable service, the preceding sub-paragraph shall have effect as if

for the rates of £353.69, £460.63 and £552.97 a year there were substituted respectively, the rates of £380.82, £487.76 and £580.10 a year.”.

30. For Part VI of Schedule 2 there shall be substituted the following Part—

“PART VI

Widow's Gratuity by way of Commuted Pension

A widow's gratuity by way of commuted pension shall be a sum equal to 11 times the annual amount of the pension or, as the case may be, of that part of the pension which is commuted, or such greater sum as may be agreed between the Authority and the widow, not exceeding the capitalised value of the said pension or part of the pension, calculated in accordance with tables prepared from time to time by the Government Actuary.”.

31. After Part VII of Schedule 2 there shall be inserted the following Parts—

“PART VIII

Widow's Requisite Benefit Pension

The amount of a widow's requisite benefit shall be an amount equal to her husband's average pensionable pay divided by 160 and multiplied by the period in years of his pensionable service after 5th April 1978.

PART IX

Widow's Pension Where Fireman Marries After Retirement

1. A pension under Article 24(2) shall be the greater of the 2 following amounts, namely—

- (a) one half of her husband's notional pension referred to in paragraph 2;
- or
- (b) her husband's average pensionable pay divided by 160 and multiplied by the period in years of his pensionable service after 5th April 1978.

2. The notional pension referred to in paragraph 1 shall be the pension referred to in paragraph 3(1)(a) of Part I of Schedule 2 (read as if that paragraph included also a reference to a deferred pension) multiplied by the fraction of which the numerator is the period in years of his pensionable service after 5th April 1978 and the denominator is the period in years of his total pensionable service, subject in each case to a maximum of 30 years.

3.—(1) This paragraph shall apply where the husband was in receipt of a pension.

(2) Where this paragraph applies, the widow's pension under Article 24(2) shall, so far as necessary, be increased in respect of the first 13 weeks for which it is payable so as to secure that, in respect of each such week, the aggregate amount of the pension and of any children's allowances payable in respect of the husband's death is no less than the weekly amount of his pension immediately before he died.

(3) For the purposes of this paragraph there shall be disregarded any reduction in the husband's pension in consequence of—

- (a) Part VIII of Schedule 1, or
- (b) his entitlement to any additional benefit within the meaning of paragraph 4 of Part V of Schedule 1.”.

32. In Part I of Schedule 7 (inserted by Part II of Schedule 1 to this Order)—

(a) in paragraph 1

(i) the word “and” shall be omitted between sub-paragraph (1)(c) and sub-paragraph (1)(d);

(ii) after sub-paragraph (1)(d) there shall be inserted the following sub-paragraphs—

“(e) in the case of a regular fireman who, at the time of his ceasing to be a member of his former brigade, has a guaranteed minimum in relation to the pension provided by this Scheme, the amount of that guaranteed minimum, and

(f) the amount of any contributions equivalent premium in respect of him which has been paid by the fire authority and not repaid.”

(b) in paragraph 2(1) for the word “fourth” there shall be substituted the word “fifth”;

(c) in paragraph 2(3) for the word “fifth” there shall be substituted the word “sixth”;

(d) in paragraph 5 for the words “paragraph 6” there shall be substituted the words “paragraphs 6 and 6A”; and

(e) after paragraph 6 there shall be inserted the following paragraphs—

“6A. Where a regular fireman at the time of his ceasing to be a member of his former brigade has a guaranteed minimum in relation to the pension provided by this Scheme, the transfer value shall be reduced by the amount of that guaranteed minimum, expressed as an annual pension, multiplied by the appropriate factor specified in the fourth column of the Table or, in the case of a woman, in the seventh column thereof.

6B. Where a contributions equivalent premium has been paid in respect of the fireman and has not been repaid, the transfer value shall be reduced by the amount of that premium.”

33. In Part II of Schedule 7 (inserted by Part II of Schedule 1 to this Order)—

(a) in paragraph 1—

(i) the word “and” shall be omitted between sub-paragraph (1)(c) and sub-paragraph (1)(d);

(ii) after sub-paragraph (1)(d) there shall be inserted the following sub-paragraph—

“(e) where he, on ceasing to be in his former service, had a guaranteed minimum in relation to the pension provided by the superannuation arrangements to which he was then subject, the amount of that guaranteed minimum.”;

(b) in paragraph 2(2), for the word “fifth” there shall be substituted the word “sixth”;

(c) at the end of paragraph 2(2) there shall be inserted the following paragraph—

“(2A) Where on the date that the fireman ceased to be in his former service he had a guaranteed minimum in relation to the pension provided by the superannuation arrangements to which he was then subject, the amount of that guaranteed minimum, expressed as an annual pension, shall be multiplied by the appropriate factor specified in the fourth column of the Table, or in the case of a woman, in the seventh column thereof, and the transfer value shall be adjusted by the addition of that product.”;

(d) in paragraph 3(1), for the word “fourth” there shall be substituted the word “fifth”; and

(e) in paragraph 3(3), for the word “fifth” there shall be substituted the word “sixth”.

34. In Schedule 7 for Part III (inserted by Part II of Schedule 1 to this Order) there shall be substituted the following Part—

"PART III

TABLE

<i>Age last birthday before date of cessation</i>	<i>Men</i>			<i>Women</i>		
	<i>Basic factor</i>	<i>N.I. factor</i>	<i>GMP factor</i>	<i>Basic factor</i>	<i>N.I. factor</i>	<i>GMP factor</i>
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Less than 20	5.00	.25	1.47	7.00	.50	2.20
20	5.05	.25	1.50	7.05	.50	2.24
21	5.10	.25	1.53	7.10	.55	2.28
22	5.15	.30	1.56	7.15	.60	2.32
23	5.20	.30	1.59	7.20	.65	2.36
24	5.25	.30	1.62	7.25	.70	2.40
25	5.30	.35	1.65	7.35	.75	2.45
26	5.35	.40	1.68	7.40	.80	2.50
27	5.40	.40	1.71	7.45	.85	2.55
28	5.45	.45	1.74	7.50	.90	2.60
29	5.50	.50	1.78	7.55	.95	2.66
30	5.55	.50	1.81	7.65	1.05	2.71
31	5.60	.55	1.85	7.70	1.15	2.77
32	5.65	.60	1.88	7.80	1.25	2.82
33	5.70	.65	1.92	7.90	1.35	2.88
34	5.75	.70	1.95	7.95	1.45	2.93
35	5.80	.80	1.99	8.05	1.55	2.99
36	5.85	.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
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

Age last birthday before date of cessation	Men			Women		
	Basic factor	N.I. factor	GMP factor	Basic factor	N.I. factor	GMP factor
(1)	(2)	(3)	(4)	(5)	(6)	(7)
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	— "

35. In Schedule 8—

(a) in paragraph 1 the words "subject to the provisions of paragraph 2" shall be omitted;

(b) for paragraph 2 there shall be substituted the following paragraphs—

"2. A regular fireman as referred to in paragraph 1 shall retire on attaining the age of 60 years.

3. The pension of a regular fireman, granted under the provisions of paragraph 1 shall be reduced by 1.375% to provide for a widow's pension accruing from 6th April 1978, in accordance with the provisions of paragraph 4.

4.—(1) The widow of a regular fireman shall be entitled to a pension equal in amount to her husband's pensionable pay at the date of his death divided by 160 and multiplied by the period in years of his pensionable service after 5th April 1978.

(2) Such pension shall apply whether or not the marriage took place before or after retirement of the regular fireman and shall not be affected if the widow re-marries on or after reaching the age of 60.

5. Where a widow is entitled to a pension which, together with any increase under the Pensions (Increase) Act (Northern Ireland) 1971 does not exceed £52 per annum, the Authority may, at their discretion, commute the pension for a gratuity which shall be a sum equal to 11 times the annual amount of the pension or, as the case may be, of that part of the pension which is commuted, or such greater sum as may be agreed between the Authority and the widow, not exceeding the capitalised value of the said pension or part of the pension, calculated in accordance with tables prepared from time to time by the Government Actuary.

6. Notwithstanding the provision of Article 1(2)(c) of the Scheme of 1973 the following provisions of that Scheme shall with any necessary modifications apply for the purposes of this Modified Scheme—

Article 12 (Deferred pension and award where no transfer value and no other award is payable),

Article 12A (Deferred pension where ill health pension is cancelled),

Article 12B (Supplementary provisions about deferred pensions),

- Article 13(1) (Minimum aggregate amounts of payments in respect of fireman's pension),
- Article 21 (Widow's accrued pension),
- Article 41 (Withdrawal of pension on conviction of certain offences),
- Article 63(5) (Payment of widow or child allowance where fireman was in receipt of pension or gratuity),
- Article 65A (Payment of transfer values under interchange arrangements), and
- Article 78A (Contracting Out)."

SCHEDULE 2

PART IV

Transitional Provisions

1. Where a regular fireman retired before 6th April 1978, Articles 12 and 12D of the Scheme of 1973 as set out in Part III shall not have effect in relation to him but Article 12 of the Scheme of 1973 as originally made shall continue so to have effect.

2. Where before 1st May 1979 the Authority have determined under Article 41 of the Scheme of 1973 as originally made that an award be withdrawn, that determination shall continue to have effect notwithstanding the amendment of that Scheme made by Part III.

EXPLANATORY NOTE

(This Note is not part of the Order but it is intended to indicate its general purport.)

This Order amends the Firemen's Pension Scheme Order (Northern Ireland) 1973 with effect, as provided by Articles 3 and 4, from the dates mentioned below (retrospective effect is authorised by section 17(3B) of the Fire Services Act (Northern Ireland) 1969).

This Order provides a new method for transferring superannuation rights where a person enters the fire brigade from certain other forms of pensionable employment or enters such employment after leaving the fire brigade. It also enables the Scheme to satisfy the requirements for the issue of a contracting-out certificate under Article 33 of the Social Security Pensions (Northern Ireland) Order 1975.

Part I of Schedule 1 to the Order amends the 1973 Order in respect of a fireman who, having previously ceased to serve as a fireman, again becomes a fireman. Under the 1973 Order where such a fireman's previous service is to count towards a widow's pension it must be uprated by way of a reduction in his own pension rather than by payment in the form of contributions or a lump sum. Part I ensures that any such payments made during previous service for this purpose will, if they were returned to him on his leaving that service without a pension, be retained by the fireman or, where his former brigade itself retained such payments for the purpose of paying a deferred pension, be returned to him to the extent that payment was by contribution, any lump sum being set against the reduction in the fireman's own pension. Part I also makes consequential amendments in the provisions dealing with widow's pension and child's allowance. Part I of Schedule 1 has effect as from 1st October 1973, the date on which the provisions that they amend came into operation.

Part II of Schedule 1 provides a method by which a person's superannuation rights together with those of his dependants may be transferred where the pension schemes of both a fire brigade and such other employment do not provide similar benefits. Rights which have accrued under the one scheme can be converted into a sum, referred to in the Order as a transfer value, which is the actuarial equivalent of such rights, and which can be reconverted to indicate the appropriate entitlement under the other scheme. For the purpose of introducing this method the Order has effect as from 1st January 1974, but subject to certain conditions, superannuation rights in respect of a person who changed employment before that date can be transferred in accordance with the said method.

Part III of Schedule 1, which has effect as from the date that this Order comes into operation, ensures that where a fireman elected to uprate his previous service for the purpose of a widow's pension by paying additional or further contributions, but left before completing the payments due, the proportion of his previous service to be taken into account in calculating his widow's pension is the same as the proportion of payments due for that purpose which he has paid.

Part I of Schedule 2, which takes effect from 1st October 1973, adds to the Scheme provisions conferring a right to a deferred pension where an ill-health pension is cancelled in certain circumstances.

Part II of Schedule 2, which takes effect from 6th April 1975, adds to the Scheme provisions conferring a right to a pension (equal to the graduated retirement benefit) on certain regular firemen serving on that date who would not otherwise be entitled to a pension under the Scheme.

Part III of Schedule 2, which takes effect from 6th April 1978, enables the Scheme to satisfy the requirements for the issue of a contracting-out certificate under Article 33 of the Social Security Pensions (Northern Ireland) Order 1975.