

2007 No. 143

FIRE SERVICES

PENSIONS

**The Firefighters' Compensation Scheme Order (Northern
Ireland) 2007**

Made - - - - - *5th March 2007*

Coming into operation - - - - - *2nd April 2007*

The Department of Health, Social Services and Public Safety, in exercise of the powers conferred by Article 10(1), (3), (4) and (5) of the Fire Services (Northern Ireland) Order 1984(a) and now vested in it(b) and with the approval of the Department of Finance and Personnel(c), in accordance with Article 10(1) of that Order, makes the following Order:

Citation, commencement, effect and interpretation

1.—(1) This Order may be cited as the Firefighters' Compensation Scheme Order (Northern Ireland) 2007 and shall come into operation on 2nd April 2007; but—

- (a) rule 3 of Part 2 of the Compensation Scheme (compensation for death or permanent incapacity while on duty), and so much of that Scheme as relates to that rule, shall have effect from 1st April 2000; and
- (b) the remainder of the Compensation Scheme shall have effect from 1st April 2006.

(2) In this Order—

“the Compensation Scheme” means the Firefighters' Compensation Scheme (Northern Ireland) 2007, set out in the Annex; and

“the Pension Scheme” means the Scheme set out in the Annex to the Firefighters' Pension Scheme Order (Northern Ireland) 2007(d).

New compensation scheme for firefighters

2.—(1) Subject to articles 3 and 4, the Compensation Scheme (which makes provision for the payment of pensions, allowances and gratuities to and in respect of persons who die or are permanently disabled as the result of an injury sustained or disease contracted while employed by the Northern Ireland Fire and Rescue Service) shall have effect.

(2) The corresponding provisions of the Firemen's Pension Scheme and the provisions of the Compensation Scheme to which they correspond are set out in Schedule 7.

(a) S.I. 1984/1821 (N.I. 11); see Article 2(2) for the definition of “the Department”; Article 10 was continued by S.I. 2006/1254 (N.I. 9), Article 60(1) and (2).
(b) See S.R. 1999 No. 481 Schedule 4, Part III
(c) Formerly the Department of Finance. See S.I. 1982/338 (N.I.6) Article 3
(d) S.R. 2007 No. 144

General transitional provisions

3.(1) Where—

- (a) a provision of the Compensation Scheme (“the new provision”) re-enacts a provision of the Firemen’s Pension Scheme Order (Northern Ireland)(a) (“the old 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 old provision had continued to have effect,

he may, by giving written notice to the Board, elect that the new provision is to apply in relation to the benefit as if it had re-enacted the old provision without modification.

(2) Notice under paragraph (1) must be given not later than 16th April 2007.

(3) For the purposes of paragraph (1), a protected benefit is one paid, or capable of becoming payable, to or in respect of a person who, before 1st April 2006, ceased to be a member of the fire brigade or died.

Transitional provision: decisions and determinations made before 1st April 2006

4.—(1) With the exception of rule 3 of Part 2, the Compensation Scheme shall not have effect in relation to a person in respect of whom a determination or decision under the Pension Scheme relevant to whether permanent disablement has been occasioned by a qualifying injury (within the meaning of article 7 of the Pension Scheme) has been made before 1st April 2006.

(2) In a case to which paragraph (1) applies, the provisions of the Pension Scheme, in the form in which they exist immediately before 1st April 2006, shall continue to have effect in relation to such a person.

Sealed with the Official Seal of the Department of Health, Social Services and Public Safety on 5th March 2007

Nigel Carson

A senior officer of the Department of Health, Social Services and Public Safety

The Department of Finance and Personnel approves this Order.

Sealed with the Official Seal of the Department of Finance and Personnel on 5th March 2007

Dr Mary McIvor

A senior officer of the
Department of Finance and Personnel

(a) S.R. 2006 No. 210

The Firefighters' Compensation Scheme (Northern Ireland) 2007

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PART 1

GENERAL PROVISIONS

Citation, commencement and effect

1.—(1) This Scheme may be cited as the Firefighters' Compensation Scheme (Northern Ireland) 2007.

(2) With the exception of rule 3 of Part 2 (compensation for death or permanent incapacity while on duty), the provisions of this Scheme have effect from 1st April 2006.

(3) Rule 3 of Part 2 has effect from 1st April 2000.

Interpretation

2.—(1) In this Scheme—

“the 1984 Order” means the Fire Services (Northern Ireland) Order 1984(a);

“the 2006 Order” means the Fire and Rescue Services (Northern Ireland) Order 2006(b);

“amount”, in relation to a pension or allowance, means its annual amount;

“average pensionable pay” has the same meaning as in the Pension Scheme(c);

“award” means a pension, allowance or gratuity under this Scheme;

“child”, in relation to a person who has died, means—

(a) a legitimate or illegitimate child, step-child or adopted child of his, and

(b) 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;

and “parent” shall be construed accordingly;

“disabled”, “disablement” and “permanent disablement” shall be construed in accordance with rule 8 of this Part ;

“the Board” means the Northern Ireland Fire and Rescue Service Board;

“qualified medical practitioner” means 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(d) 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(e);

“injury” includes disease;

“normal pension age”, in relation to employees of the Board appointed on terms under which they are or may be required to engage in fire-fighting, means 55;

“pension” means a pension under this Scheme;

“Pension Scheme” means the Firemen's Pension Scheme Order (Northern Ireland) 2007(f);

“pensionable pay” and “pensionable service” have the same meaning as in the Pension Scheme(g);

“qualifying injury” shall be construed in accordance with rule 7 of this Part ;

“regular firefighter” means a person who is employed—

(a) S.I. 1984/1821 (N.I. 11)

(b) S.I. 2006/1254 (N.I.9)

(c) See rule G1.

(d) The Faculty of Occupational Medicine is a registered charity no. 1035415

(e) S.I. 2003/1250, amended by S.I. 2004/1997.

(f) Set out in the Annex to the Firemen's Pension Scheme (Northern Ireland) Order 2007 (S.R. 2007 No.144).

(g) See, as to “pensionable pay”, article 65 and, as to “pensionable service”, article 53.

- (a) by the Board as a firefighter (whether whole-time or part-time), other than as a retained or volunteer firefighter, and
- (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;

“retained firefighter” means an employee of the Board who is obliged to attend—

- (a) at the station to which he is attached for training, development and maintenance duties for an average of two hours each week (plus an additional hour per week on average at the discretion of the Board) or such less hours as the officer in charge of the station, subject to any orders of the Chief Officer, considers necessary;
- (b) promptly, at any time, in response to a call;
- (c) at any incident or other occurrence, or at any other station for reserve or standby duties in accordance with the orders he receives; and
- (d) receives a retaining fee and other such fees as may be appropriate in respect of those duties;

“retire” shall be construed in accordance with rule 11 of this Part;

“state pensionable age” means pensionable age as determined in accordance with the rules in paragraph 1 of Schedule 2 to the Pensions (Northern Ireland) Order 1995(a);

“surviving spouse” means a widow or widower; and

“volunteer firefighter” means an employee of the Board who—

- (a) is obliged to attend at the station to which he is attached for training, development and maintenance duties for an average of two hours each week (plus an additional hour per week on average at the discretion of the Board) or such less hours as the officer in charge of the station, subject to any orders of the Chief Officer, considers necessary and, promptly, at any time, in response to a call; and
- (b) receives no retaining fee in respect of those duties.

(2) 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

3.—(1) Subject to paragraph (3) and Part 8 (special cases), 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 Article 10 of the 1984 Order and the Pension Schemes (Northern Ireland) Act 1993 (b).

(2) In paragraph (1) “pension provision” means any provision for the payment of an award, on death or permanent disablement, in respect of employment as a regular firefighter.

(3) A person who is not an employee of the Board but whose employment is, under rule 4 or 5 of this Part, treated for the purposes of this Scheme as employment as a regular firefighter, is not a regular firefighter for the purposes of this rule.

Application to temporary employment connected with fire services

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

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

(a) S.I. 1995/3213 (N.I. 22).

(b) 1993 c.49.

- (a) as an instructor at the central training institution or any training centre maintained by the Secretary of State, or
- (b) as an inspector appointed under Article 55 of the 2006 Order or under section 24 of the Fire Services Act 1947; 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, 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 temporary employment shall be treated for the purposes of this Scheme as employment by the Board; and this Scheme applies in relation to the temporary 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;
- (c) any reference to employment with the Board were a reference to the temporary employment, and
- (d) any reference to the Board were a reference to the Secretary of State.

Application to permanent employment as instructor

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

(2) For the purposes of this rule permanent employment is 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 paragraph applies the person's permanent employment shall be treated for the purposes of this Scheme as employment by the Board and this Scheme applies in relation to the permanent employment as if—

- (a) he were, and his duties were duties as, a regular firefighter, and
- (b) any reference to the Board were a reference to the Secretary of State.

Reckoning of service for purposes of awards

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

$$A + (B \div 365) \text{ years}$$

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 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 the Board 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) Subject to rule 2 of Part 8 (special cases: award for or in relation to a retained or volunteer firefighter) and Part 2 of Schedule 2, any period of service as a part-time employee of the Board shall be treated as service as a whole-time employee of the Board when calculating a person’s pensionable service.

Qualifying injury

7.—(1) Except in—

- (a) rule 3 of Part 2 (compensation for death or permanent incapacity while on duty),
- (b) rule 2 of Part 8 (special cases: award for or in relation to a retained or volunteer firefighter), and
- (c) rule 3 of Part 10 (prevention of duplication),

references in this Scheme to a qualifying injury are references to an injury received by a person, without his own default, in the exercise of his duties as a regular firefighter.

(2) In rule 3 of Part 2, references to a qualifying injury are references to an injury received by a person in the exercise of his duties as a regular, retained or volunteer firefighter.

(3) In rule 2 of Part 8 and paragraph (4) of rule 2 of Part 10, references to a qualifying injury are references to an injury received by a person, without his own default, in the exercise of his duties as a retained or volunteer firefighter.

(4) For the purposes of this Scheme an injury shall be treated as having been received by a person without his own default unless the injury is wholly or mainly due to his own serious and culpable negligence or misconduct.

Disablement

8.—(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.

(2) In determining whether a disablement is permanent, the Board shall have regard to whether the disablement will continue until the person’s normal pension age.

(3) Subject to paragraph (4), 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.

(4) Where it is necessary to determine the degree of a person’s disablement, it shall be determined by reference to the degree to which his earning capacity has been affected as a result of a qualifying injury.

(5) Where, as a result of a qualifying injury, a person is receiving in-patient treatment at a hospital, he shall be treated as being totally disabled.

(6) Where—

- (a) a person has retired before becoming disabled; and
- (b) the date on which he becomes disabled cannot be ascertained,

it shall be taken to be the date on which the claim that he is disabled is first made known to the Board.

Death or infirmity resulting from qualifying injury

9.—(1) Except for the purposes of rule 3 of Part 2 a person shall be taken to have died from the effects of a qualifying injury if it appears that, had he not suffered that injury, he would not have died when he did.

(2) Except for the purposes of rule 3 of Part 2, in the case of a person who has died or become permanently disabled, any infirmity of mind or body shall be taken to have been occasioned by an injury if the injury caused or substantially contributed to the infirmity or, as the case may be, the person's death.

Effective date of retirement

10.—(1) For the purposes of this Scheme an employee of the Board shall be taken to retire immediately after his last day of service.

PART 2

INJURY AWARDS AND DUTY-RELATED COMPENSATION

Injury awards

1.—(1) This rule applies to a regular firefighter who has retired and is permanently disabled if the infirmity was occasioned by a qualifying injury.

(2) The firefighter is entitled—

(a) to a gratuity; and

(b) subject to paragraphs (3) and (4), to an injury pension,

both calculated in accordance with Schedule 1.

(3) Payment of an injury pension is subject to paragraph 4 of Part 1 of Schedule 1.

(4) Where the firefighter retired before becoming permanently disabled, no payment in respect of an injury pension shall be made for the period before he became permanently disabled.

Part-time members

2. 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, is part-time service, his award shall be calculated in accordance with Part 2 of Schedule 1.

Compensation for death or permanent incapacity while on duty

3.—(1) This rule applies—

(a) in relation to a firefighter whose death is caused solely by the effects of a qualifying injury sustained in the performance of his duties as a firefighter; and

(b) to a firefighter who is permanently incapacitated at the date of discharge for carrying on any occupation solely by reason of a qualifying injury sustained in the performance of his duties as a firefighter.

(2) Subject to paragraphs (4) and (6) to (8), the Board shall pay—

(a) to the firefighter; or

(b) if he dies within twelve months of the date on which he sustained the injury that was the cause of his death—

(i) to his dependants, for their joint benefit; or

(ii) if he has only one dependent, to that person,

the amount ascertained in accordance with paragraph (3).

(3) The amount is equal to five times the annual pensionable pay that a competent firefighter employed in the same role by the Board would receive calculated—

- (a) on the assumption that the firefighter had completed four years' service; and
- (b) using the rate of pay applicable at the date on which the injury was sustained.

(4) If the firefighter dies within the period referred to in paragraph (2)(b) leaving no dependants, the Board shall, subject to paragraphs (6) to (8), pay to his personal representative, for the benefit of his estate, the sum of £950.

(5) The recipient of a payment under paragraph (2) or (4)—

- (a) shall notify the Board of the subsequent receipt by him, or where payment is made in the circumstances mentioned in paragraph (2)(b), by dependant of the deceased, of any payment by way of compensation or damages referable to the qualifying injury (including the receipt of any such payment from the Board); and
- (b) shall, unless that payment has already been abated by virtue of paragraph (7), pay to the Board such amount as may be notified to him by the Board as the amount to which the Board is entitled under paragraph (7).

(6) Where the firefighter's serious and culpable negligence or misconduct contributed in any material respect to the circumstances in which his qualifying injury was sustained, the Board may reduce the amount or sum referred to in paragraph (2) or (4) by such amount as it considers appropriate.

(7) The Board shall abate a payment under paragraph (2) or (4) by the amount of any compensation or damages received as mentioned in paragraph (5)(a).

(8) The Board shall deduct from the amount that would otherwise be payable as mentioned in paragraph (2) or (4) the amount of any gratuity payable under this Scheme or the Pension Scheme, other than the amount of the gratuity that represents the difference between the gratuity payable under rule 1 of Part 3 (special award) and the gratuity payable under rule 2 of that Part (augmented award).

(9) For the purposes of this rule—

- (a) a firefighter is competent for pay purposes if—
 - (i) having been assessed, he has been found to be competent in the performance of the duties of his role; and
 - (ii) he is paid at the rate appropriate to competent firefighters performing the same role;
- (b) the dependants of a deceased firefighter are—
 - (i) any spouse or civil partner who is living with the firefighter at the date of his death;
 - (ii) any spouse or civil partner who is not living with the firefighter at that time but who is wholly or substantially dependent on him for financial support;
 - (iii) any unmarried partner (other than a civil partner) who had been living with the firefighter in a long-term relationship (his "long-term partner");
 - (iv) any dependent child who at the date of the firefighter's death—
 - (aa) is under 16; or
 - (bb) is under 19 and is undergoing full-time education or full-time vocational training;
 - (v) any parent of his who at the date of his death is wholly or substantially dependent on him for financial support; and
 - (vi) any brother, sister, daughter or son of his who at the date of his death is—
 - (aa) over the age of 19; and
 - (bb) wholly or substantially dependent on him for financial support.

(10) In paragraph (9)(b)(iii), "long-term relationship" means a relationship that has continued, to the exclusion of any other relationship, for the period of at least two years ending with the date of the firefighter's death or such shorter period as the Board may in any particular case allow.

Commutation of small compensatory pensions

4.—(1) Where the total amount of—

- (a) any pension under rule 1 payable to a person who has attained state pensionable age; and
- (b) any pension to which he is entitled under article 74 of the Pension Scheme (pension credit member's entitlement to pension); and
- (c) any increase under the Pensions (Increase) Act (Northern Ireland) 1971(a),

does not exceed the commutation limit for the purposes of Part 1 of Schedule 29 to the Finance Act 2004 (lump sum rule)(b), the Board may commute the pension for a lump sum.

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

PART 3

AWARDS ON DEATH: SPOUSES AND CIVIL PARTNERS

Special award for spouse or civil partner

1.—(1) This rule applies where a person who is or has been a regular firefighter dies from the effects—

- (a) of a qualifying injury; or
- (b) of infirmity of mind or body occasioned by a qualifying injury,

leaving a surviving spouse or civil partner.

(2) Subject to rules 3 and 4, the surviving spouse or civil partner is entitled—

- (a) to a special pension calculated in accordance with Part 1 of Schedule 2; and
- (b) subject to paragraph (5), to a gratuity.

(3) Where the deceased died while serving as a regular firefighter, the amount of the gratuity is the total of 25% of his average pensionable pay and the greater of—

- (a) as regards a surviving spouse—
 - (i) his average pensionable pay; and
 - (ii) two and a quarter times the amount of the pension that would have been payable under article 17 of the Pension Scheme (ill-health award) if on the date of his death he had retired on the ground of permanent disablement;
- (b) as regards a surviving civil partner—
 - (i) his average pensionable pay; and
 - (ii) two and a quarter times such amount as bears to the amount of the pension referred to in sub-paragraph (a)(ii) 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.

(4) In any other case the amount of the gratuity is 25% of the deceased's average pensionable pay.

(5) Where the deceased was entitled to an injury gratuity under rule 1 of Part 2 (injury award)—

- (a) if it was of the same or a larger amount, no gratuity is payable under this rule; and
- (b) if it was of a smaller amount, the gratuity under this rule shall be reduced by that amount.

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

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

Augmented award for spouse or civil partner

2.—(1) This rule applies where a person who is or has been a regular firefighter dies from the effects—

- (a) of a qualifying injury; or
- (b) of infirmity of mind or body occasioned by a qualifying injury,

leaving a surviving spouse or civil partner, and one of the conditions in paragraph (2) is satisfied.

(2) The conditions are—

- (a) that the injury was received in the execution of duties performed, in circumstances in which there was an intrinsic likelihood of his receiving a fatal injury, for the immediate purpose of saving the life of another person or of preventing loss of human life; or
- (b) that the Board is of the opinion that the preceding condition may be satisfied and that this rule should apply; or
- (c) that the Board is of the opinion that the injury was received in such circumstances that it would be inequitable if this rule were not to apply.

(3) Where this rule applies, rule 1 of this Part applies with the modifications set out in paragraphs (4) and (5).

(4) For the purpose of calculating the special pension, Part 1 of Schedule 2 has effect with the substitution for “45%” of “50%”.

(5) Unless they produce a more favourable result, paragraphs (3) to (5) of rule 1 do not apply, and the amount of the gratuity is twice the annual pensionable pay, at the date of the death, of a regular firefighter employed in the role of firefighter and entitled to reckon 30 years’ service for the purposes of pay.

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

3.—(1) A surviving spouse or civil partner is not entitled to a special pension under rule 1 or an augmented pension under rule 2 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 mentioned in that paragraph, is instead entitled to a pension calculated in accordance with Part 2 of Schedule 2.

(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 of that the deceased service after 5th April 1988 bears to the whole of his pensionable service.

Limitation where spouse or civil partner is living apart

4.—(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 rule 1 or 2.

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

- (a) in the case of a surviving spouse, in accordance with Part IV of Schedule 3 to the Pension Scheme; 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 an award under rule 1 or 2; 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 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 rule 1 or 2; and

(b) the amount of the relevant contributions.

(6) The Board may determine that, for such period as it thinks 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 it thinks fit.

(7) Where, but for paragraph (1), the surviving spouse or civil partner would be entitled to a gratuity, the Board may decide that the gratuity be paid in whole or part, as it thinks fit.

Effect of new relationship

5.—(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 Board may pay the whole or any part of the pension for such period after the dissolution or death as it thinks 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 Board may pay the person the whole or any part of the outstanding amount.

PART 4

AWARDS ON DEATH: CHILDREN

Child’s special allowance

1.—(1) This rule applies where a person who is or has been a regular firefighter dies from the effects—

(a) of a qualifying injury; or

(b) of infirmity of mind or body occasioned by a qualifying injury,

leaving a child.

(2) Subject to rule 3, where this rule applies the child is entitled to a child’s special allowance calculated in accordance with paragraph 1 of Schedule 3.

Child’s special gratuity

2.—(1) This rule applies where a person who is or has been a regular firefighter dies from the effects—

(a) of a qualifying injury; or

(b) of infirmity of mind or body occasioned by a qualifying injury,

leaving a child but not leaving a surviving spouse or civil partner entitled to a gratuity under rule 1 of Part 3, and one of the conditions in rule 2(2) of that Part is satisfied.

(2) Subject to rule 3, where this rule applies the child is entitled to a gratuity in addition to a child's special allowance.

(3) Where only one child is entitled to a gratuity, its amount is that specified in rule 2(5) of Part 3 ("the full amount"); where two or more children are entitled, the amount of each gratuity is the full amount divided by the number of children entitled.

Child's special allowance or gratuity: limitations

3.—(1) No allowance or gratuity 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 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 Board, having regard to all the circumstances, determines 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 Board, having regard to all the circumstances, determines to pay an allowance to him notwithstanding any period of interruption.

(6) Part 2 of Schedule 3 has effect for the reduction, in certain circumstances, of allowances under this Part.

(7) No special gratuity under rule 2 shall be paid in respect of a person who attained the age of 17 before the date of the death unless at that date he was—

- (a) undergoing full-time education or full-time vocational training; or

- (b) both permanently disabled and substantially dependent on the deceased.

PART 5

AWARDS ON DEATH: ADDITIONAL PROVISION

Adult dependent relative's special pension

1.—(1) This rule applies where a person who is or has been a regular firefighter dies from the effects—

- (a) of a qualifying injury; or
- (b) of infirmity of mind or body occasioned by a qualifying injury,

and there is an adult dependent relative.

(2) An adult dependent relative is—

- (a) a parent of the deceased; or
- (b) a brother or sister of the deceased who had attained the age of 19 before the death; or
- (c) a child of the deceased who has, whether before or after the death, attained the age of 19,

who was substantially dependent on the deceased immediately before the death.

(3) If the Board, having regard to all the circumstances of the case, so determines, it may grant a special pension to an adult dependent relative.

(4) A special pension under this rule—

- (a) shall be calculated in accordance with Part 1 of Schedule 4; and
- (b) is payable for such period or periods as the Board may, from time to time, determine.

Dependent relative's gratuity

2.—(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 Board thinks fit, it may grant a gratuity to a dependent relative; but the aggregate of all gratuities granted under this paragraph in respect of the death shall not exceed the amount of the deceased's aggregate pension contributions.

Gratuity in lieu of surviving spouse's or civil partner's pension

3.—(1) Where the amount of any pension payable under Part 3, together with any increase under the Pensions (Increase) Act (Northern Ireland) 1971, does not exceed the commutation limit specified for the purposes of Part 1 of Schedule 29 to the Finance Act 2004^(a) (lump sum rule) in paragraph 7(4) of that Part (trivial commutation lump sum), the Board may commute the pension for a gratuity.

(2) Where—

- (a) a surviving spouse or civil partner is entitled to a pension under rule 1 of Part 3; and

(a) 2004 c.12.

- (b) the Board is 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 Board may commute the pension for a lump sum.

(3) The Board may only commute a pension for a lump sum under this rule when the pension first becomes payable.

(4) 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 special allowance

4.—(1) Where—

- (a) a child is entitled to a special allowance under rule 1 of Part 4; and
 - (b) the Board is satisfied that there are sufficient reasons; and
 - (c) a surviving parent or the child's guardian, or if he has neither, the child himself, consents,
- the Board may commute the allowance for a lump sum.

(2) A lump sum under this rule shall be calculated in accordance with Part 2 of Schedule 4.

Increase of pensions and allowances during first 13 weeks

5.—(1) Paragraphs (2) to (4) apply to a surviving spouse's or civil partner's special 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 or 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 Pension 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 Pension (Increase) Act (Northern Ireland) 1971,

immediately before the death.

(4) For the purposes of paragraph (3)(b)—

- (a) any reduction in the deceased's pension under paragraph 3 of Part 1 of Schedule 1 (reduction related to additional benefits) or under Part VII of Schedule 2 to the Pension Scheme (reduction of pension related to up-rating of widow's pension) shall be disregarded; and
- (b) where the deceased died while in receipt of an injury pension as well as an ordinary, short service or ill-health pension, the reference to the weekly amount of the deceased's pension shall be construed as a reference to the aggregate weekly amount of both the pensions.

(5) Paragraphs (6) and (7) apply to a child's special allowance under this Scheme and a child's ordinary or accrued allowance under the Pension 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 the appropriate amount divided by the number of allowances.

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

PART 6

DETERMINATION OF QUESTIONS AND APPEALS

Determination by Board

1.—(1) The question whether a person is entitled to any and if so what awards shall be determined in the first instance by the Board.

(2) Subject to paragraph (3), before deciding, for the purpose of determining that question or any other question arising under this Scheme—

- (a) whether any disablement has been occasioned by a qualifying injury;
- (b) the degree to which a person is disabled; or
- (c) any other issue wholly or partly of a medical nature,

the Board shall obtain the written opinion of a qualified medical practitioner selected by it and the opinion of the qualified medical practitioner shall be binding on the Board.

(3) If, by reason of the person's refusal or wilful or negligent failure to submit to medical examination by the qualified medical practitioner selected by it, the Board is unable to obtain the opinion mentioned in paragraph (2), it may—

- (a) on such other medical evidence as it thinks fit; or
- (b) without medical evidence,

give such decision on the issue as it may choose to give.

Appeal to medical referee

2.—(1) Where—

- (a) an opinion of the kind mentioned in rule 1(2) has been obtained; and
- (b) within 14 days of his being notified of the Board's decision on the issue the person concerned applies to the Board for a copy of the opinion,

the Board 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 Board in accordance with paragraph 1 of Schedule 5.

(3) The Board shall be bound by any decision on any issue referred to in sub-paragraphs (a) to (c) of rule 1(2) duly given on an appeal under this rule.

(4) Further provisions as to appeals under this rule are contained in Schedule 5.

Appeal against decision of the Authority

3.—(1) Where a person claims that he is entitled to an award or to any payment in respect of an award and the Board —

- (a) does not admit the claim at all; or
- (b) does not admit the claim to its full extent,

the Board shall reconsider the case if he applies to it to do so.

(2) If he is dissatisfied with any determination given by the Board on reconsidering the case, he may, within 2 months of being informed by the Board of the decision, appeal to the Department against the decision of the Board

(3) The Department shall, unless it appears to it that the case is of such a nature that it can properly be determined without taking oral evidence, arrange for the hearing of the appeal, and at any such hearing the appellant shall be entitled to have an opportunity of submitting statements relating to the subject matter of the appeal, calling witnesses, giving evidence and making such representations as he desires, and shall be entitled to have the assistance in presenting his case of a person selected by himself.

(4) After considering in accordance with the foregoing provisions of this rule all the circumstances of the case the Department shall either allow the claim to such extent as it thinks fit or dismiss the appeal.

(5) Nothing in this paragraph shall authorise the Department to:-

- (a) control or restrict the exercise of any discretion which is vested in the Board by any provision of this Scheme except rule 5 of Part 9 (withdrawal of pension on conviction of certain offences);
- (b) reopen any medical issue decided on appeal under rule 2; or
- (c) question any certificate as to pensionable service which has become conclusive under article 45(5) of the Pension Scheme (reckoning of and certification as to pensionable service).

(6) The decision of the Department on an appeal under paragraph (2) shall be final and binding on both parties.

PART 7 SERVICEMEN

Interpretation of Part 7

1.—(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 shall 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”).

(3) References in this Part 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; and
- (b) 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.

Awards to servicemen

2.—(1) This rule applies to a serviceman who, at the end of his forces period, is permanently disabled.

^(a) 1951 c.23.

(2) Subject to paragraph (3), article 15 of the Pension Scheme (ill-health award) has effect in relation to a serviceman to whom this rule applies as if he had been required to retire under article 11 of the Pension Scheme (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 or by a qualifying injury the Board may—

- (a) pay him, instead of an ill-health gratuity under article 15(2)(b) of the Pension Scheme, a pension at the rate of 1/12th of his average pensionable pay; and
- (b) subject to paragraph (4), increase any such pension.

(4) Paragraph 1 of Schedule 6 has effect for limiting increases under paragraph (3)(b).

Awards on death of servicemen

3.—(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) If the serviceman dies from the effects of an injury received during his forces period or a qualifying injury the Board may—

- (a) pay the surviving spouse or civil partner, instead of a gratuity under article 29(2)(b) of the Pension Scheme, a pension of the appropriate amount; and
- (b) subject to paragraph (4), increase any such pension and any pension or child's allowance payable under article 25 or 33 of the Pension Scheme.

(3) The appropriate amount mentioned in paragraph (2)(a) is £379.78 increased as described in article 44(7) and (8) of the Pension Scheme (flat-rate awards).

(4) Paragraphs 2 and 3 of Schedule 6 have effect for limiting increases under paragraph (2)(b).

Servicemen who resume service as regular firefighters

4.—(1) Paragraphs (3) and (4) of rule 2 or, as the case may be, paragraphs (2) to (4) of rule 3 shall apply in relation to a serviceman who, having sustained an injury during his forces period and resumed service as a regular firefighter—

- (a) is permanently disabled; or
- (b) dies, whether or not while serving as a regular firefighter,

as they apply in relation to servicemen to whom rule 2 or, as the case may be, rule 3 applies.

PART 8

SPECIAL CASES

Award for or in relation to employee who is not a regular or retained firefighter

1.—(1) This rule applies where a person who is an employee of the Board but is not a regular or retained firefighter suffers an injury, without his own default—

- (a) while in attendance at a fire; and
- (b) in the execution of his duties as an employee of the Board.

(2) If the person retires in consequence of the injury, the Board may, subject to paragraph (4), grant him such pension or gratuity as they think fit.

(3) If the person dies from the effects of the injury, either before or after retiring from that employment, the Board may, subject to paragraph (4)—

- (a) grant such pension and gratuity as they think fit to any surviving spouse or civil partner; and
- (b) grant such allowance as they think fit to any child.

(4) The total of—

- (a) any benefit under this rule; and
- (b) any relevant additional benefit payable to the recipient,

must not exceed the appropriate amount.

(5) An additional benefit is any payment of whatever nature made—

- (a) by the Board otherwise than under this rule; or
- (b) by a Minister of the Crown,

except a benefit payable under Part V of the Social Security Contributions and Benefits (Northern Ireland) Act 1992^(a); and a relevant additional benefit is, in relation to a pension or allowance under this rule, one by way of periodical payments and, in relation to a gratuity under this rule, one otherwise than by way of periodical payments.

(6) The appropriate amount is—

- (a) for a pension or gratuity under paragraph (2), that of the injury pension or gratuity under rule 1 of Part 2;
- (b) for a pension or gratuity under paragraph (3)(a), that of the special pension or gratuity under rule 1 of Part 3; and
- (c) for an allowance under paragraph (3)(b), that of the special allowance under rule 1 of Part 4,

which would have been payable on the required assumptions.

(7) The required assumptions are—

- (a) in every case, that the person was employed in the role of firefighter;
- (b) where paragraph (2) applies, that the person retired on account of a qualifying injury during the first year of service and that paragraph 2 of Part 1 of Schedule 1 (reduction of injury pension on account of certain other pensions) did not apply; and
- (c) where paragraph (3) applies, that the person died or retired during the first year of service and died from the effects of a qualifying injury.

Award for or in relation to a retained or volunteer firefighter

2.—(1) Subject to paragraph (2), this paragraph applies to a person—

- (a) who was employed by the Board as a retained firefighter or volunteer firefighter; and
- (b) has retired; and
- (c) is permanently disabled,

if the infirmity that occasioned his incapacity for the performance of duty was occasioned by a qualifying injury.

(2) A person to whom paragraph (1) applies shall be treated for the purposes of rules 1 and 3 of Part 2 (injury awards) as having been a regular firefighter falling within the description in paragraph (10).

(3) Articles 18 (commutation), 20 (allocation) and 21 (limitation of commuted or allocated portion) shall apply in relation to the awards to which, by virtue of paragraph (2), he is entitled.

(a) 1992 c.7.

(4) A person to whom paragraph (1) applies shall be treated for the purposes of article 15 (ill-health awards) of the Pension Scheme as having been a regular firefighter falling within the description in paragraph (10); and articles 18 (commutation), 20 (allocation), 21 (limitation of commuted or allocated portion), 80 (review of ill-health and certain deferred pensions), 81 (consequences of review) and 82 (reduction in case of default) apply accordingly in relation to the awards to which he is thus entitled.

(5) This paragraph applies where a person is or has been employed by the Board as a retained firefighter or who is or has been a volunteer firefighter dies from the effects—

- (a) of a qualifying injury; or
- (b) of infirmity of mind or body occasioned by a qualifying injury.

(6) Where paragraph (5) applies and the deceased leaves a surviving spouse or civil partner, the deceased shall be treated for the purposes of rules 2 and 3 of Part 3 (spouse's or civil partner's special and augmented awards) as having been a regular firefighter falling within the description in paragraph (10).

(7) Rules 3, 4 and 5 of Part 3 (limitations with reference to date of marriage or formation of partnership and where spouses or civil partners living apart, and effect of new relationship), rule 3 of Part 5 (gratuity in lieu of surviving spouse's and civil partner's pension) and rule 5 of that Part (increase of pensions and allowances during first 13 weeks) shall apply in relation to the awards to which, by virtue of paragraph (6) above, the spouse or civil partner is entitled.

(8) Where paragraph (5) applies and the deceased leaves a child, the deceased shall be treated for the purposes of rules 1 and 2 of Part 4 (child's special allowance and gratuity) as having been a regular firefighter falling within the description in paragraph (10).

(9) Rule 3 of Part 4 (child's special allowance or gratuity: limitations), rule 3 of Part 5 (gratuity in lieu of child's special allowance) and rule 5 of that Part (increase of pensions and allowances during first 13 weeks) shall apply in relation to the awards to which, by virtue of paragraph (8), the child is entitled.

(10) The regular firefighter mentioned in paragraphs (2), (4), (6) and (8) is one who is a whole-time employee of the Board and—

- (a) was employed in the same role as the retained or volunteer firefighter and had the same service in that role;
- (b) was entitled to reckon as pensionable service a period equal to the retained or volunteer member's service as such; and
- (c) in respect of any service before 1st April 1980 paid pension contributions at the rate of 6p a week less than 6.75% of his pensionable pay.

Employees other than regular firefighters: supplementary

3.—(1) Part 1 applies for the interpretation of rules 1 and 2.

(2) Parts 6, 9 and 10 apply in relation to awards under rules 1 and 2.

PART 9

REVIEW, WITHDRAWAL AND FORFEITURE OF AWARDS

Review of injury pension

1.—(1) Where a person is in receipt of an injury pension, the Board shall consider, at such intervals as it thinks fit, whether the degree of his disablement has substantially altered; if it finds that it has, the pension shall be reassessed accordingly.

(2) Where the Board, on consideration under paragraph (1), find that his disability has ceased, the injury pension shall be terminated with immediate effect.

(3) This rule ceases to have effect with respect to a particular injury pension if, at any time after the expiration of 5 years from the time when it first became payable, the Board so resolves.

Reduction of award in case of default

2.—(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 Board may reduce any injury 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 under article 16 of the Pension Scheme if the person had become entitled to one on the date of his ceasing to serve.

Withdrawal of pension during service as regular firefighter

3. The Board may withdraw the whole or any part of the pension, except a pension under Part 3 (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 within the United Kingdom.

Withdrawal of pension on conviction of certain offences

4.—(1) In the circumstances specified in paragraph (2) the Board 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 3, 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 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) The Board may, to such extent as they at any time think fit—

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

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

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

Forfeiture of award

5. A person who has been convicted of an offence under paragraph (2) of Article 41 of the Fire and Rescue Services (Northern Ireland) Order 2006 (offences), forfeits the whole or part of an award or sum obtained by him under this Scheme, as the Board thinks fit.

PART 10

PAYMENT OF AWARDS AND FINANCIAL PROVISIONS

Payment of awards

1.—(1) While a pension or allowance is payable under this Scheme—

- (a) it is payable in respect of each week; and
- (b) the Board shall discharge its liability in respect of it by making payments in advance at such reasonable intervals as it may determine,

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

(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 3—

- (a) a surviving spouse remarries or forms a civil partnership; or
- (b) a surviving civil partner forms 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 remarriage took place or, as the case may be, the civil partnership was formed.

(4) Subject to paragraphs (5) and (6), pensions under Part 3 and allowances under Part 4 (“survivors’ benefits”) are payable from the date of the death.

(5) Subject to paragraph (6), in the case of a posthumous child any allowance under Part 4 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) 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 Board; and
- (b) if the Board is satisfied that it would be to the advantage of the person entitled, it may pay a gratuity in instalments of such reasonable amounts and over such reasonable period as it thinks fit.

Prevention of duplication

2.—(1) This rule applies where, in respect of any particular period, a person is entitled to—

- (a) two or more pensions or allowances under this Scheme; or
- (b) a pension or allowance under this Scheme and a pension or allowance under the Pension Scheme.

(2) A pension payable—

- (a) under article 20 of the Pension Scheme to the beneficiary of an allocation;

- (b) under article 74 of that Scheme (pension credit member's entitlement to pension); or
- (c) under article 78 of that Scheme (guaranteed minimum pensions),

is not a pension for the purposes of this rule.

(3) Subject to paragraph (4) and article 86 of the Pension Scheme, 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 rule 1 of Part 2 to an injury pension and also under article 13, 14, 15 or 16 of the Pension Scheme to an ordinary, short service, ill-health or deferred pension; or
- (b) to a pension in respect of employment with the Board and also to a pension as the surviving spouse or civil partner of an employee of the Board; or
- (c) to pensions as the surviving child of both parents who were employed by the Board,

those pensions shall be treated as one.

(5) If a transfer value or cash equivalent is paid, any award to which the person became entitled under Part 2 on ceasing to serve as a regular firefighter ceases to be payable.

Prevention of duplication: other injury awards for persons who are both regular and retained firefighters

3.—(1) This rule applies in relation to a person employed as both a regular firefighter and a retained firefighter who is entitled—

- (a) to either an injury award under rule 1 of Part 2, an ill-health award under article 15 of the Pension Scheme, or both; and
- (b) to an injury award under Part 2 (by virtue of rule 2 of Part 8) (“the Part 8 award”) and an ill-health award under article 15 of the Pension Scheme.

(2) The Board shall pay the award under article 15 of the Pension Scheme in full and, subject to paragraph (3), shall only pay the injury element of the Part 8 award.

(3) Where the amount awarded under article 15 of the Pension Scheme is less than the amount which, but for paragraph (2), would have been paid to the person as the ill-health element of the Part 8 award, the Board shall pay him an amount equal to the amount of the difference.

(4) A firefighter who is entitled to both an award under rule 1 of Part 2 and a Part 8 award shall receive a single award of an amount equal to the award under that rule or the Part 8 award, whichever is greater; and rule 1(2) shall apply as regards the payment of that single award.

Prevention of duplication: other awards for spouses or children of persons who are both regular and retained firefighters

4.—(1) This rule applies where—

- (a) a person employed as both a regular and a retained firefighter dies (whether during or after such employment); and
- (b) a qualifying injury sustained in the course of such employment is certified by a qualified medical practitioner as the cause of death; and
- (c) in consequence of the person's death, another person becomes entitled not only to an award of a description mentioned in paragraph (2), but also to an award of a description mentioned in paragraph (3).

(2) The descriptions mentioned in this paragraph are—

- (a) a spouse's or civil partner's special award under rule 1 of Part 3;
- (b) a spouse's or civil partner's augmented award under rule 2 of that Part;
- (c) a child's special allowance under rule 1 of Part 4; and
- (d) a child's special gratuity under rule 2 of that Part.

(3) The descriptions mentioned in this paragraph are—

- (a) a spouse's or civil partner's ordinary pension under article 25 of the Pension Scheme;
- (b) a spouse's or civil partner's accrued pension under article 26 of that Scheme;
- (c) a spouse's or civil partner's requisite benefit and temporary pension under article 28 of that Scheme;
- (d) a spouse's or civil partner's award under article 29 of that Scheme (award where no other award is payable);
- (e) a child's ordinary allowance under article 33 of that Scheme; and
- (f) a child's accrued allowance under article 34 of that Scheme.

(4) The award of the description in paragraph (3) shall be paid in full, and the award of the description in paragraph (2) shall not be paid.

(5) Where the amount of the award paid to a person in accordance with paragraph (4) is less than the amount which, but for that paragraph, would have been paid to him by way of an award of a description in paragraph (2), the Board shall pay an amount equal to the amount of the difference.

SCHEDULE 1

Part 2

INJURY AWARDS AND DUTY-RELATED COMPENSATION

PART 1

CALCULATION OF AWARDS FOR FULL-TIME SERVICE

1.—(1) Subject to Part 2 of this Schedule, the amounts of the injury gratuity and the injury pension shall be calculated by reference to the Table below.

(2) In the headings in the Table references to relevant service are references to service which either was, or would but for an election under article 59 of the Pension Scheme or a failure to elect under article 62 of that Scheme have been, reckonable as pensionable service.

Table

<i>Percentage disablement</i>	<i>Gratuity as percentage of average pensionable pay</i>	<i>Pension as percentage of average pensionable pay</i>			
		<i>Less than 5 years' relevant service</i>	<i>5 or more but less than 15 years' relevant service</i>	<i>15 or more but less than 25 years' relevant service</i>	<i>25 or more years' relevant service</i>
25 or less (slight disablement)	12.5	15	30	45	60
More than 25 but not more than 50 (minor disablement)	25	40	50	60	70
More than 50 but not more than 75 (major disablement)	37.5	65	70	75	80
More than 75 (severe disablement)	50	85	85	85	85

2.—(1) The amount of a person's injury pension under rule 1 of Part 2 shall be reduced by three quarters of the amount of any other pension referable to his service as a firefighter.

(2) The amount of a person's injury pension calculated in accordance with paragraph 1 shall be reduced by three quarters of the amount of any other pension calculated by reference to pensionable service reckonable by virtue of the period of service during which he received the qualifying injury or, where an election under article 59 of the Pension Scheme had effect or the person failed to make an election under article 58 of that Scheme, by the amount of any other pension which would otherwise have been so calculated.

(3) For the purposes of sub-paragraphs (1) and (2), any reduction of the other pension—

- (a) under article 18 (commutation) or 20 (allocation) of the Pension Scheme;
- (b) under Part VII of Schedule 2 to that Scheme; or
- (c) by virtue of a pension debit,

shall be disregarded.

3.—(1) In respect of any week for which the person is entitled to an additional benefit mentioned in sub-paragraph (2) the amount of his injury pension calculated in accordance with paragraph 1 shall, subject to sub-paragraph (6), be reduced by the amount of the benefit.

(2) The additional benefits are—

- (a) so much of any disablement pension under section 103 of the Social Security Contribution and Benefits (Northern Ireland) Act 1992(a) (“the 1992 Act”) as relates to the qualifying injury, together with any relevant increase;
- (b) so much of any reduced earnings allowance under paragraph 11 of Schedule 7 to the 1992 Act as relates to the qualifying injury; and
- (c) until the material date, any benefit mentioned in sub-paragraph (3), together with any relevant increase.

(3) The material date for the purposes of sub-paragraph (2)(c) is the first day after the person’s retirement which is not, or is deemed not to be, a day of incapacity for work within the meaning of section 31 or 33 of the 1992 Act, or, as the case may be, a day on which he is incapable for work within the meaning of section 68 of the 1992 Act, and the benefits are—

- (a) any sickness benefit under section 31 of the 1992 Act; and
- (b) any invalidity pension under section 33 of the 1992 Act, including any additional component comprised in it in pursuance of section 55 of and Schedule 5 to the 1992 Act; and
- (c) any severe disablement allowance under section 68 of the 1992 Act.

(4) In relation to the additional benefit mentioned in sub-paragraph (2)(a), relevant increases comprise any increase in the benefit attributable to an increase in the pension—

- (a) by way of unemployability supplement under paragraph 2 of Schedule 7 to the 1992 Act, excluding any increase under paragraph 3 of Schedule 7 in the supplement; or
- (b) under paragraph 4 or 6 of Schedule 7 to the 1992 Act (dependants),

and so long as the person is receiving treatment as an in-patient at a hospital as a result of the qualifying injury, any increase in the pension under paragraph 10 of Schedule 7 to the 1992 Act (hospital treatment).

(5) In relation to the additional benefits referred to in sub-paragraph (2)(c), any increase under any provision of sections 80 to 93 of the 1992 Act (dependants) is a relevant increase.

(6) Where the provisions governing scales of additional benefits have changed after the person ceased to be a regular firefighter, the amount of the reduction in his injury pension in respect of any week on account of a particular benefit shall not exceed what it would have been if those provisions had not changed.

(7) Where a person has become entitled to a disablement gratuity under section 103 of the 1992 Act in respect of the qualifying injury, this paragraph has effect as if he were entitled under that section during the relevant period to a disablement pension of the amount that would be produced by converting the gratuity into an annuity for that period; the relevant period is the period taken into account, in accordance with section 103 of the 1992 Act, for the purpose of making the assessment by reference to which the gratuity became payable.

4. No payment shall be made in respect of an injury pension for any week in which the aggregate reductions under paragraphs 2 and 3 equal or exceed the amount of the pension calculated in accordance with paragraph 1.

(a) 1992 c 7.

PART 2

CALCULATION OF AWARDS FOR PART-TIME SERVICE

1.—(1) Where some or all of a person's service, by virtue of which his pensionable service is reckonable, is part-time service, his injury gratuity or pension under Part 1 shall be calculated in accordance with this Part.

2.—(1) The amount of the gratuity or pension is—

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

where—

A is the amount of that award calculated under Part 1 if the average pensionable pay was the pay the person would have received had he been a whole-time employee of the Board;

B is the period in years of his pensionable service as a whole-time employee of the Board;

C is the period in years of his pensionable service as a part-time employee of the Board, 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.

SCHEDULE 2

Part 3

AWARDS FOR SPOUSES AND CIVIL PARTNERS

PART 1

SPECIAL PENSION

1. Subject to paragraph 2, the weekly amount of a special pension is 45% of the deceased's average pensionable pay for a week.

2.—(1) Where some or all of the deceased's service, which is reckonable as pensionable service, was part-time service, the amount of special pension shall be calculated in accordance with the formula—

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

where—

A is the amount calculated under Part 1 of Schedule 1 if the average pensionable pay was the pay the deceased would have received had he been a whole-time employee of the Board;

B is the period in years of his pensionable service as a whole-time employee of the Board;

C is the period in years of his pensionable service as a part-time employee of the Board, 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 2

AWARD FOR SURVIVING SPOUSE OR CIVIL PARTNER OF POST-RETIREMENT MARRIAGE OR CIVIL PARTNERSHIP

1.—(1) Where the surviving spouse would otherwise have been entitled to a special award under rule 2 of Part 2 or an augmented award under rule 3 of that Part, the amount of his pension under that Part shall, subject to sub-paragraph (2), be calculated in accordance with paragraph 1 of Part 1 of Schedule 3 to the Pension Scheme in the same way as that of an ordinary pension.

(2) For the purposes of this paragraph, paragraph 1 of Part 1 of Schedule 3 to the Pension Scheme has effect—

(a) as if the reference in sub-paragraph (1)(a) to the base pension were a reference to the appropriate proportion of the base pension; and

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

2. The appropriate proportion mentioned in paragraph 1(2)(a) is the proportion which the deceased's relevant pensionable service bears to his total pensionable service.

SCHEDULE 3

Part 4

AWARDS ON DEATH: CHILDREN

PART 1

CHILD'S SPECIAL ALLOWANCE

1. Subject to paragraph 4, the amount of a child's special allowance is the appropriate percentage of the deceased's average pensionable pay.
2. Where one of the child's parents is alive—
 - (a) if fewer than 5 special allowances are payable in respect of the death, the appropriate percentage is 10; and
 - (b) if 5 or more special allowances are payable, the appropriate percentage is 40 divided by the number of allowances.
3. In respect of any period during which neither of the child's parents is alive—
 - (a) if fewer than 5 special allowances are payable in respect of the death, the appropriate percentage is 20; and
 - (b) if 5 or more special allowances are payable, the appropriate percentage is 80 divided by the number of allowances.
- 4.—(1) Where some or all of the deceased's service, which is reckonable as pensionable service, was part-time service, the amount of special allowance shall be calculated using the formula in paragraph 2 of Part 2 of Schedule 1.
 - (2) In making the calculation mentioned in sub-paragraph (1), for the value of A there shall be substituted "A is the amount calculated under paragraphs 1 to 3 of Part 2 of Schedule 4 if the average pensionable pay was the pay the deceased would have received had he been a whole-time employee of the Board".

PART 2

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

- 1.—(1) This Part applies where a child entitled to an allowance under rule 1 of Part 4 ("the special allowance")—
 - (a) is undergoing full-time vocational training; 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.—(1) Where this Part applies—
 - (a) if the amount by which the annual rate of the remuneration exceeds the specified rate ("the excess remuneration") is the same as or larger than the effective amount of the relevant allowance, the allowance shall not be paid; and
 - (b) in any other case, the amount of the relevant allowance shall be reduced by that of the excess remuneration.

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

- (a) where sub-paragraph (1)(a) 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) 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 pound) at which an official pension, within the meaning of the Pensions (Increase) Act (Northern Ireland) 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.

(a) 1971 c.56.

AWARDS ON DEATH: ADDITIONAL PROVISION

PART 1

ADULT DEPENDENT RELATIVE'S SPECIAL PENSION

1. Subject to paragraphs 2 and 3, the amount of the pension—

- (a) while a surviving spouse or civil partner is alive, is 20%; and
- (a) in any other case, is 45%,

of the deceased's average pensionable pay.

2.—(1) For any week for which the total of—

- (a) any spouse's or civil partner's special pension; and
- (b) any child's special allowance,

equals or exceeds the amount of the deceased's average pensionable pay for a week, no dependent relative's special pension is payable.

(2) For any week for which the total of the special pension and—

- (a) any surviving spouse's or civil partner's special pension; and
- (b) any child's special allowances,

would exceed the amount of the deceased's average pensionable pay for a week, the dependent relative's special pension shall be reduced so that the total does not exceed that amount.

3.—(1) Where some or all of the deceased's service, which is reckonable as pensionable service, was part-time service, the amount of the deceased's average pensionable pay shall be calculated using the formula in paragraph 2 of Part 2 of Schedule 1.

(2) In making the calculation mentioned in sub-paragraph (1), for the value of A there shall be substituted "A is the average pensionable pay the deceased would have received had he been a whole-time employee of the Board".

PART 2

LUMP SUM IN LIEU OF CHILD'S ALLOWANCE

1. The amount of the lump sum is such amount, not exceeding the permitted amount, as may be agreed between the Board 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 3 of Part 5, calculated in accordance with tables prepared from time to time by the Government Actuary.

SCHEDULE 5

Part 6

APPEALS

1.—(1) Subject to sub-paragraph (2), written notice of appeal against an opinion of the kind mentioned in rule 1(2) of Part 6 stating—

- (a) the grounds of the appeal; and
- (b) the appellant's name and address,

must be given to the Board within 14 days beginning with the date on which he is supplied by the Board 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 Board is of the opinion that the person's failure to give it within that period was not due to his own default,

it may extend the period for giving notice to such length, not exceeding six months from the date mentioned in sub-paragraph (1), as it thinks fit.

2.—(1) On receiving a notice of appeal the Board shall supply the Department with two copies of the notice and two copies of the opinion.

(2) The Department shall refer an appeal to an independent medical referee and shall supply him with a copy of the notice and a copy of the opinion.

3. The independent medical referee shall secure that the appellant and the Board ("the parties") have been informed—

- (a) that the appeal is to be determined by him; and
- (b) of an address to which communications relating to the appeal may be delivered.

4. Subject to sub-paragraph (4), the independent medical referee —

- (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 he thinks necessary for the purpose of deciding the appeal.

(2) The independent medical referee shall—

- (a) appoint; and
- (b) give the parties not less than 21 days' notice of,

the time and place for every interview and medical examination; if the independent medical referee 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 independent medical referee or any person appointed by the independent medical referee for that purpose.

(4) If—

- (a) the appellant fails to comply with sub-paragraph (3); and
- (b) the independent medical referee is not satisfied that there was reasonable cause for the failure,

the independent medical referee may dispense with the interview required by paragraph (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) Persons appointed for the purpose by the Board or by the appellant or by each of them may attend any interview under this paragraph.

5.—(1) Where either party to the appeal intends to submit written evidence or a written statement at an interview held under paragraph 5, the party shall, subject to sub-paragraph (2), submit it to the independent medical referee and to the other party not less than seven days before the date appointed for the interview.

(2) Where any written evidence or statement has been submitted under sub-paragraph (1) less than nine days before the date appointed for the interview, any written evidence or statement in response may be submitted by the other party to the independent medical referee 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 independent medical referee 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 independent medical referee and of the other party as arise from the adjournment.

6. The independent medical referee shall supply the Department with a written report of his decision on the relevant medical issues and the Department shall supply a copy of the report to the appellant and to the Board.

7.—(1) There shall be paid to the independent medical referee —

- (a) such fees as are determined in accordance with arrangements made by the Department; or
- (b) where no such arrangements have been made, such fees and allowances as the Department may from time to time determine

(2) Any fees and allowances payable to the independent medical referee under sub-paragraph (1) shall—

- (a) be paid by the Board; and
- (b) be treated for the purposes of paragraph 8 as part of the Board'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 independent medical referee —

- (a) decides in favour of the Board; and
- (b) reports that in his opinion the appeal was frivolous, vexatious or manifestly ill-founded,

the Board may require the appellant to pay it such sum not exceeding the amount of the fees and allowances payable to the independent medical referee under paragraph 7(1), as it thinks fit.

(3) Where the appellant gives notice to the independent medical referee of withdrawing the appeal within a period of 21 working days prior to the date appointed for an interview or medical examination by the independent medical referee under paragraph 4(2), the Board may require the appellant to pay such sum as it thinks fit, not exceeding the independent medical referee's total fees and allowances under paragraph 7(1).

(4) Where the independent medical referee —

- (a) decides in favour of the appellant; and
- (b) does not otherwise direct,

the Board shall refund to the appellant the amount specified in sub-paragraph (5).

(5) 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.

(6) For the purposes of sub-paragraphs (2) and (4) any question arising as to whether the independent medical referee's decision is in favour of the Board or of the appellant shall be decided by the independent medical referee, or in default by the Department.

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.

SCHEDULE 6

Part 7

SERVICEMEN: INCREASED AWARDS

1. The total of—

- (a) the amount of a pension as increased under rule 2(3)(b) of Part 7; and
- (a) the amount of any service pension other than an allowance for constant attendance, wear and tear of clothing, or comforts,

must not exceed the amount of the injury pension to which the serviceman would have been entitled if rule 1 of Part 2 had applied.

2. The total of—

- (a) the amount of a pension as increased under rule 3(2)(b) of Part 7; and
- (b) the amount of any service pension payable to the spouse or civil partner in respect of the serviceman,

must not exceed the amount of the special pension to which the spouse or civil partner would have been entitled if rule 1 of Part 3 had applied.

3. The total of—

- (a) the amount of a child's allowance as increased under rule 3(2)(b) of Part 7; and
- (b) the amount of any service pension payable to or for the child in respect of the serviceman,

must not exceed the amount of the special allowance to which the child would have been entitled if rule 1 of Part 4 had applied.

SCHEDULE 7

Article 2(2)

CORRESPONDING PROVISIONS OF THE PENSION SCHEME AND
THE COMPENSATION SCHEME

<i>(1)</i> <i>Corresponding provision of Pension Scheme</i>	<i>(2)</i> <i>Provision of Compensation Scheme</i>
Article 7 (qualifying injury)	In Part 1, rule 7
Article 9 (death or infirmity resulting from injury)	In Part 1, rule 9
Article 18 (injury award)	In Part 2, rule 1
Article 29 (spouse's or civil partner's special award)	In Part 3, rule 1
Article 30 (spouse's or civil partner's augmented award)	In Part 3, rule 2
Article 39 (child's special allowance)	In Part 4, rule 1
Article 40 (child's special gratuity)	In Part 4, rule 2
Article 45 (adult dependent relative's special pension)	In Part 5, rule 1
Article 81 (servicemen who resume service as regular firefighters)	In Part 7, rule 4
Article 91 (whole-time member of brigade who is not a regular firefighter)	In Part 8, rule 1
Article 92 (retained or volunteer member of brigade)	In Part 8, rule 2
Article 93 (members of brigade other than regular firefighters – supplementary)	In Part 8, rule 3
Article 95 (reassessment of injury pension)	In Part 9, rule 2
In Schedule 1, Part I, the entry relating to "qualifying injury"	In Part 1, rule 2(1)
In Schedule 2, Part VI (injury awards)	Schedule 1
In Schedule 3, Part II (spouse's or civil partner's special pension)	Schedule 2
In Schedule 4, Part II (child's special allowance)	Schedule 3
Schedule 5 (adult dependent relative's special pension)	Schedule 4
Schedule 10 (servicemen – increased awards)	Schedule 6

EXPLANATORY NOTE

(This note is not part of the Order)

This Order provides for a new compensation scheme for firefighters in Northern Ireland. The new scheme is set out in Schedule 1 to the Order and, subject to provisions relating to rule 3 of Part 2, which has effect from 1st April 2000, has effect from 1st April 2006. The power to give retrospective effect to provisions is conferred by Article 10(4) of the Fire Services (Northern Ireland) Order 1984, as continued by Article 60 of the Fire and Rescue Services (Northern Ireland) Order 2006.

The new scheme consists primarily of provisions relating to ill-health and injury awards in respect of firefighters, their spouses, civil partners, children and other dependants, that are similar to those contained in, but to be removed from, the Pension Scheme.

The new scheme also includes (in rule 3 of Part 2) provisions based on those that previously formed part of the conditions of service applicable to firefighters. The provisions relate to the payment of compensation in respect of firefighters who die or sustain seriously disabling injuries while on duty.

The broad effect of rule 3 of Part 2 is that, where the firefighter dies while on duty, compensation of a lump sum, equivalent to five years' pensionable pay after four years' service, at the rate applying at the date of the incident, is payable to his or her dependants. If there are no dependants, a flat-rate payment of £950 is made to the deceased's estate. Those amounts are subject to abatement depending on the amount of any damages or compensation received by the firefighter or his or her dependants, and any gratuities paid.

Article 3 of the Order enables a person whose position under the new scheme would be less favourable than that under the Pension Scheme to elect to retain benefits under that Scheme. Notice of election has to be given to the Board before 16th April 2007.

A full regulatory impact assessment has not been produced for this instrument, as it has no impact on the costs of businesses, charities or voluntary bodies.