

1973 No. 966

FIRE SERVICES**The Firemen's Pension Scheme Order 1973**

<i>Made</i> - - - -	23rd May 1973
<i>Laid before Parliament</i>	8th June 1973
<i>Coming into Operation</i>	1st July 1973

In exercise of the powers conferred on me by section 26 of the Fire Services Act 1947(a), as amended and extended by sections 1 and 2(1) of the Fire Services Act 1951(b), section 42 of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951(c), section 8 of the Fire Services Act 1959(d) and sections 12 and 16 of the Superannuation Act 1972(e), and with the approval of the Minister for the Civil Service (f) and after consultation with the Central Fire Brigades Advisory Council and the Scottish Central Fire Brigades Advisory Council and so far as concerns Article 86(4) to (6) of the Scheme set out in Appendix 2 to the following Order, with the Council on Tribunals, I hereby make the following Order:—

- 1.—(1) This Order may be cited as the Firemen's Pension Scheme Order 1973.
 (2) This Order shall come into operation on 1st July 1973 and shall have effect as from 1st April 1972.

2.—(1) The Firemen's Pension Scheme 1971 (set out in Appendix 2 to the Firemen's Pension Scheme Order 1971(g)) and the Orders set out in Appendix 1 to this Order shall cease to have effect except in old cases, that is to say, except in the case of an award or payment to or in respect of, or relating to—

- (a) a person who retired or otherwise ceased to be a member of a fire brigade before 1st April 1972, or
 (b) a person, being a serviceman who did not resume service as a member of a fire brigade, whose period of relevant service in the armed forces ended before 1st April 1972,
 including an award on the death of such a person on or after the said date.

This paragraph shall be construed as one with the Firemen's Pension Scheme 1973.

- (2) The Firemen's Pension Scheme (Amendment) Order 1973(h) is hereby revoked.

3. The Pension Scheme set out in Appendix 2 to this Order (herein referred to as the Firemen's Pension Scheme 1973) is hereby brought into operation.

(a) 1947 c. 41.

(c) 1951 c. 65.

(e) 1972 c. 11.

(f) Formerly the Treasury; see S.I. 1968/1656 (1968 III, p. 4485).

(g) S.I. 1971/145 (1971 I, p. 320).

(b) 1951 c. 27.

(d) 1959 c. 44.

(h) S.I. 1973/318 (1973 I, p. 1112).

4. The Firemen's Pension Scheme 1973 shall have effect subject to the transitory provisions set out in Appendix 3 to this Order.

Robert Carr,
One of Her Majesty's Principal
Secretaries of State.

23rd May 1973.

Approval of the Minister for the Civil Service given under his Official Seal on
22nd May 1973.

(L.S.)

K. H. McNeill,
Authorised by the
Minister for the Civil Service.

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The Firemen's Pension Scheme (Amendment) (No. 2) Order 1971	S.I. 1971/1468 (1971 III, p. 4144).
The Firemen's Pension Scheme (Amendment) Order 1972	S.I. 1972/522 (1972 I, p. 1798).
The Firemen's Pension Scheme (Amendment) (No. 2) Order 1972	S.I. 1972/1643 (1972 III, p. 4833).

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PART I

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Citation, effect, transitional provisions etc.

1.—(1) This Scheme may be cited as the Firemen's Pension Scheme 1973 and shall have effect as from 1st April 1972.

(2) Nothing in this Scheme shall apply in the case of an award or payment to or in respect of, or relating to—

(a) a person who retired or otherwise ceased to be a member of a fire brigade before 1st April 1972, or

(b) a person, being a serviceman who did not resume service as a member of a fire brigade, whose period of relevant service in the armed forces ended before 1st April 1972,

including an award on the death of such a person on or after the said date.

(3) Subject as aforesaid and to the transitory provisions contained in Appendix 3 to the Firemen's Pension Scheme Order 1973, this Scheme shall have effect as if anything done or treated as done under or for the purposes of the Firemen's Pension Scheme 1971^(a), as amended, had been done under or for the purposes of the corresponding provision of this Scheme.

(4) Without prejudice to the generality of paragraph (3), references therein to anything done shall include—

(a) the determination of a question;

(b) the exercise of a discretion;

(c) the making of a payment; and

(d) the giving of a notice.

(5) For the purpose of determining the amount payable on account of an award for a period ending before 1st December 1972, this Scheme shall have effect subject to the transitory provisions referred to in paragraph (3).

(a) See S.I. 1971/145 (1971 I, p. 320).

Meaning of "regular fireman"

2. In this Scheme the expression "regular fireman" means—
- (a) a whole-time member of a brigade who was appointed on terms under which he is or may be required to engage in fire-fighting, not being a person whose employment is temporary only; or
 - (b) a whole-time member of a brigade who—
 - (i) was, immediately before the appointed day, subject to the Fire Brigade Pensions Act 1925(a);
 - (ii) became, on that day, a whole-time member of a brigade serving the whole or any part of the area of the local authority by whom he was last employed as a member of a fire brigade before the appointed day; and
 - (iii) has not since the appointed day ceased to be a whole-time member of that brigade.

Meaning of "qualifying injury"

3.—(1) In this Scheme the expression "qualifying injury" means an injury received by a person without his own default in the execution of his duties—

- (a) as a regular fireman;
- (b) as a professional fireman within the meaning of the Fire Brigade Pensions Act 1925, whether or not a member of the London Fire Brigade, or as a member of a police force employed whole-time on fire brigade duties within the meaning of the Fire Brigades Act 1938(b); or
- (c) as a whole-time member of the National Fire Service to whom the National Fire Service (Preservation of Pensions) (Act of 1925) Regulations 1941(c), the National Fire Service (Preservation of Pensions) (London and West Ham) Regulations 1941(d), the National Fire Service (Preservation of Pensions) (Birmingham and Leicester) Regulations 1941(e), the National Fire Service (Preservation of Pensions) (Bolton and Derby) Regulations 1941(f) or the National Fire Service (Preservation of Pensions) (Police Firemen) Regulations 1941(g) applied,

except that, save where the context otherwise requires, in Part X of this Scheme the said expression means an injury so received by a person in the execution of his duties as a part-time member of a brigade.

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

Meaning of infirmity or death occasioned by an injury and of disablement

4.—(1) A person shall be deemed for the purposes of this Scheme to have died from the effects of a particular injury if it appears that if he had not suffered that injury he would not have died at the time he in fact died.

(2) Infirmity of mind or body shall be deemed for the purposes of this Scheme to be occasioned by a particular injury—

- (a) where a person dies while serving as a fireman, if it appears that the injury has so substantially aggravated the infirmity of mind or body that if he had not received that injury he would not have died at the time he in fact died;
- (b) where a person has ceased to be a fireman, if it appears that the injury has so substantially aggravated the infirmity of mind or body that if he had not received that injury he would not have had to retire at the time when he in fact retired.

(a) 1925 c. 47. (b) 1938 c. 72.
 (c) S.R. & O. 1941/1268 (1941 I, p. 320). (d) S.R. & O. 1941/1272 (1941 I, p. 333).
 (e) S.R. & O. 1941/1273 (1941 I, p. 337). (f) S.R. & O. 1941/1274 (1941 I, p. 342).
 (g) S.R. & O. 1941/1271 (1941 I, p. 328).

(3) Any reference in this Scheme to a person being permanently disabled is to be taken as a reference to that person being disabled at the time when the question arises for decision and to that disability appearing, at that time, likely to be permanent.

(4) Subject to paragraph (5) 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, occasioned as aforesaid, to earn a living.

(5) 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:

Provided that a person shall be deemed to be totally disabled if, as a result of a qualifying injury, he is receiving in-patient treatment at a hospital.

(6) Where a person has retired before becoming disabled and 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 fire authority.

Meaning of "aggregate contributions"

5.—(1) In this Scheme the expression "aggregate contributions" means in relation to a regular fireman—

- (a) all payments made by him to a fire authority under this Scheme or a previous Scheme which relate to a period of service he is entitled to reckon as pensionable service for the purposes of this Scheme and have not been refunded to him including such payments made—
 - (i) by way of rateable deductions from pay,
 - (ii) by way of such additional and further contributions as are mentioned in Articles 57 and 58,
 - (iii) by way of such a lump sum as is mentioned in Article 59, and
 - (iv) in pursuance of such an undertaking as is mentioned in Schedule 4; and
- (b) the amount of any award by way of return of contributions which would have been made to him at the end of any period of service or employment, otherwise than as a regular fireman, by virtue of which he was subject to superannuation arrangements, being a period which he is entitled to reckon as pensionable service for the purposes of this Scheme, had he then voluntarily retired in circumstances entitling him to such an award under those arrangements.

(2) In this Article the expression "award by way of return of contributions" shall include—

- (a) a payment under section 18 of the Fire Brigade Pensions Act 1925;
- (b) a payment under section 10 of the Local Government Superannuation Act 1937(a);
- (c) a payment under section 10 of the Local Government Superannuation (Scotland) Act 1937(b);
- (d) a payment under section 12 of the Teachers (Superannuation) Act 1925(c);
- (e) any analogous payment.

Meaning of reference to awards

6.—(1) Except where the context otherwise requires and subject to paragraph (2), any reference in this Scheme to a pension or other award is a reference to a pension or other award, as the case may be, under this Scheme.

(2) Any reference to a pension or other award to a regular fireman in Articles 48, 49 or 56(4) includes a reference to a pension or other award, as the case may be, under a previous Scheme.

(a) 1937 c. 68.
(c) 1925 c. 59.

(b) 1937 c. 69.

(3) Any reference in this Scheme to a widow's pension, however expressed, shall be construed as excluding a reference to a pension payable to a widow under Article 41.

Meaning of certain expressions related to the operation of the National Insurance Acts

7.—(1) In this Scheme the following expressions shall have the meanings respectively which they have for the purposes of the National Insurance Act 1965(a):—

- “employed contributor's employment”;
- “graduated contribution”;
- “graduated retirement benefit”;
- “non-participating employment”;
- “payment in lieu of contributions”.

(2) In this Scheme any reference to a participating period of relevant employment is a reference to a period of employed contributor's employment after 5th April 1961 and before insured pension age other than—

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

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

(3) In this Scheme any reference to the secured portion of a pension is a reference to the portion of the pension which equals the graduated retirement benefit which would be payable to the pensioner, on the assumption that he retired from regular employment on attaining insured pensionable age, in return for a payment in lieu of contributions in respect of the whole of any period of non-participating employment by virtue of which he is entitled to reckon pensionable service for the purposes of the pension, being a period of non-participating employment at the end of which no payment in lieu of contributions in fact fell to be made; and any reference to the unsecured portion of a pension shall be construed accordingly.

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

(4) For the purposes of this Scheme, the annual rate of graduated retirement benefit shall be determined as if there were 52½ weeks in each year.

(5) In the case of a person entitled to reckon a period of pensionable service by virtue of service or employment otherwise than as a regular fireman in respect of which he was subject to superannuation arrangements, being service or employment in Northern Ireland or the Isle of Man, this Scheme shall have effect as if any reference to the National Insurance Act 1946(b) or the National Insurance Act 1965 or any enactment contained therein included a reference to any enactment of the Parliament of Northern Ireland or, as the case may be, any enactment of Tynwald, making provision for corresponding purposes.

Meaning of certain expressions

8.—(1) In this Scheme, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say:—

- “appointed day” means, in relation to England and Wales, 1st April 1948, and in relation to Scotland, 16th May 1948;
- “award” means a pension, allowance, gratuity or award by way of return of aggregate contributions;

(a) 1965 c. 51.

(b) 1946 c. 67.

“brigade” means a fire brigade maintained under the principal Act;

“child” means (without regard to age) legitimate or illegitimate child, step-child or adopted child and any other child who is substantially dependent on the person concerned and either is related to him or is the child of his spouse; and the expressions “father”, “mother”, “parent” and “grandparent” shall be construed accordingly;

“fireman” means, subject to paragraph (2), a member of a brigade including a regular fireman;

“former brigade” means the brigade in which a serviceman was serving immediately before undertaking relevant service in the armed forces;

“injury” includes disease;

“previous Scheme” means the Firemen’s Pension Scheme 1971, the Firemen’s Pension Scheme 1966(a), the Firemen’s Pension Scheme 1964(b), the Firemen’s Pension Scheme 1956(c), the Firemen’s Pension Scheme 1952(d) or the Firemen’s Pension Scheme 1948(e), as from time to time in force;

“principal Act” means the Fire Services Act 1947;

“rank” includes the post of chief officer or, in Scotland, of firemaster;

“relative” means wife, widow, parent, grandparent or child, or any person who is a child of such a relative;

“relevant service in the armed forces” means—

(a) service specified in Schedule 1 to the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951, other than service specified in sub-paragraph (b) of paragraph 5 thereof;

(b) part-time service under the National Service Act 1948(f), otherwise than pursuant to a training notice under that Act; and

(c) service for the purpose of training only performed by a person mentioned in paragraph 7 of Schedule 1 to the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951 for a period shorter than 7 days;

“serviceman” means a person who immediately before undertaking relevant service in the armed forces was a regular fireman;

“service pension” means any armed forces pension or allowance payable in pursuance of any Royal Warrant or other instrument.

(2) Any reference in this Scheme to a member of a brigade or regular fireman shall, where appropriate, be construed as, or be construed as including, a reference to a person who has been a member of a brigade or, as the case may be, a regular fireman.

(3) Any reference in this Scheme to 1p or 6p a week less than a percentage of a person’s pensionable pay shall, in relation to a period before 15th February 1971, be construed as a reference to 2d. or 1s. 2d. a week, as the case may be, less than that percentage.

(4) For the purposes of this Scheme a member of a fire brigade shall be taken to retire immediately following his last day of service.

Construction of references to provisions of Scheme

9. In this Scheme, unless the context otherwise requires, a reference to an Article shall be construed as a reference to an Article of this Scheme, a reference to a Schedule shall be construed as a reference to a Schedule to this Scheme, a reference to a paragraph shall be construed as a reference to a paragraph in the same Article or, as the case may be, the same Part of the same Schedule and a reference to a sub-paragraph shall be construed as a reference to a sub-paragraph in the same paragraph.

(a) See S.I. 1966/1045 (1966 II, p. 2504). (b) See S.I. 1964/1148 (1964 II, p. 2574).

(c) See S.I. 1956/1022 (1956 I, p. 953). (d) See S.I. 1952/944 (1952 I, p. 1003).

(e) See S.I. 1948/604 (Rev. VII, p. 776: 1948 I, p. 1091).

(f) 1948 c. 64.

Construction of references to enactments and instruments

10. In this Scheme, unless the contrary intention appears, a reference to any enactment or instrument shall be construed as including a reference to that enactment or instrument as amended, extended or applied by any other enactment or instrument.

Application of the Interpretation Act 1889

11. The Interpretation Act 1889(a) shall apply for the purpose of the interpretation of this Scheme as it applies for the purpose of the interpretation of an Act of Parliament.

PART II

AWARDS ON RETIREMENT OF REGULAR FIREMEN

Fireman's ordinary pension

12.—(1) Every regular fireman who has attained the age of 50 years and retires, being entitled to reckon at least 25 years' pensionable service, shall be entitled to a fireman's ordinary pension of an amount calculated in accordance with Part I of Schedule 1, subject however to Parts VII and VIII of that Schedule.

(2) Notwithstanding anything in paragraph (1), a chief officer or in Scotland a firemaster who retires before attaining the age of 55 years shall not be entitled to a pension under this Article unless his notice of retirement was given with the permission of the fire authority.

Fireman's short service award

13.—(1) Every regular fireman who is required to retire on account of age, but is not entitled to an ordinary pension under Article 12 shall be entitled to a fireman's short service award as hereinafter provided.

(2) In the case of a fireman entitled to reckon at least 5 years' pensionable service, the award under paragraph (1) shall be a short service pension calculated in accordance with Part II of Schedule 1, subject however to Parts VII and VIII of that Schedule.

(3) In the case of any other fireman, the award under paragraph (1) shall be a short service gratuity calculated in accordance with Part IV of Schedule 1, subject however to Part IX of that Schedule.

(4) Every regular fireman who retires at or over the age of 65 years and is entitled to reckon at least 5 years' pensionable service but is not entitled to a pension or gratuity under any other provision of this Part of this Scheme shall be entitled to a short service pension calculated in accordance with Part II of Schedule 1, subject however to Parts VII and VIII of that Schedule.

Fireman's ill-health award

14.—(1) Every regular fireman who is permanently disabled and retires on that account shall be entitled to an ill-health award as hereinafter provided.

(2) In the case of a fireman—

(a) who is entitled to reckon at least 5 years' pensionable service; or

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

the award under paragraph (1) shall be an ill-health pension calculated in accordance with Part III of Schedule 1, subject however to Parts VII and VIII of that Schedule.

(3) In the case of any other fireman the award under paragraph (1) shall be an ill-health gratuity calculated in accordance with Part IV of Schedule 1, subject however to Part IX of that Schedule.

(a) 1889 c. 63.

Fireman's injury awards

15.—(1) This Article shall apply to a regular fireman who retires or has retired and is permanently disabled where his infirmity of mind or body is occasioned by a qualifying injury.

(2) A fireman to whom this Article applies shall be entitled to a gratuity and, in addition, to an injury pension, in both cases calculated in accordance with Part V of Schedule 1; but payment of an injury pension shall be subject to the provisions of paragraph 5 of the said Part V and, where the fireman retired before becoming permanently disabled, no payment shall be made in respect of the period before he became so disabled.

Deferred pension and award where no other award payable

16.—(1) This Article shall apply to a regular fireman who retires 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.

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

- (a) has attained the age of 26 years,
- (b) is entitled to reckon at least 5 years' pensionable service or, though not so entitled, is entitled to reckon pensionable service by virtue of service or employment aggregating at least 5 years, and
- (c) elects that this paragraph shall apply in his case by notice in writing given to the fire authority within 3 months of 1st July 1973 or the date on which he ceased to be a member of a fire brigade whichever is the later, or within such longer period as the authority may allow in the circumstances of his case,

shall, on retirement, 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 payments shall be made on account of the pension—

- (i) 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
- (ii) if he sooner relinquishes his entitlement to the pension by written notice given to the fire authority, in respect of any period thereafter.

(3) In the case of a regular fireman who retired before 1st July 1973, an election under paragraph (2)(c) shall be of no effect unless within the period there mentioned he repays to the fire authority any award made in his case under Article 55(1) of the Firemen's Pension Scheme 1971.

(4) A regular fireman to whom this Article applies who, on retirement, is not granted a pension under paragraph (2) shall be entitled to an award by way of repayment of his aggregate contributions.

(5) In the case of a regular fireman—

- (a) who retired on or after 6th April 1973, and
- (b) whose annual pensionable pay has at any time exceeded £5,000,

this Article shall have effect as if sub-paragraph (c) of paragraph (2) and paragraphs (3) and (4) were omitted.

Minimum aggregate amount of payments in respect of fireman's pension

17.—(1) Where a regular fireman dies while in receipt of an ordinary, short service or ill-health pension, then if the aggregate of—

- (a) the sums paid in respect of the pension;
- (b) any gratuity payable in respect of his death; and
- (c) the actuarial value of any widow's pension or child's allowance payable in respect of his death,

is less than his aggregate contributions, there shall be paid to his estate the difference by way of adjustment of the amount of the pension.

(2) Where a regular fireman does not resume service in his brigade before the expiration of a month from the termination, under Article 18, of the unsecured portion of his ill-health pension, then if the aggregate of—

- (a) the sums paid in respect of the pension; and
- (b) the actuarial value of the secured portion of the pension (in so far as it is payable under Article 18(4)),

is less than his aggregate contributions, there shall be paid to him the difference by way of adjustment of the amount of the pension.

(3) For the purposes of this Article—

- (a) where a person was in receipt of both an ill-health pension and an injury award, the sums paid in respect of the gratuity and pension under Article 15 shall be treated as if they had been paid in respect of the ill-health pension;
- (b) the actuarial value of a widow's pension, of a child's allowance or of the secured portion of an ill-health pension shall be calculated in accordance with the tables prepared from time to time by the Government Actuary;
- (c) where a fireman's pension is reduced under Article 21 the lump sum paid to him under that Article shall be deemed to have been paid in respect of the pension; and
- (d) where a fireman's pension is reduced under Article 41, any reference in this Article to the aggregate amount paid to him in respect of the pension shall be construed as a reference to the aggregate amount which would have been so paid had the pension not been so reduced.

Cancellation of fireman's ill-health and injury pensions on recovery

18.—(1) As long as a person—

- (a) is in receipt of an ill-health pension;
- (b) would not, if he had continued to serve as a regular fireman instead of retiring with an ill-health pension, have become entitled to retire with an ordinary pension; and
- (c) if he had continued so to serve, could not have been required to retire on account of age,

the fire authority may, if they wish to exercise the powers conferred by this Article, consider, at such intervals as they in their discretion think proper, whether he has become capable of performing the duties of a regular fireman.

(2) If on any such consideration it is found that he has become capable of performing the duties of a regular fireman, the fire authority may terminate the unsecured portion of the ill-health pension.

(3) Where the unsecured portion of a person's ill-health pension is terminated under this Article, the fire authority shall, if he presents himself for service in the brigade at any time before the expiration of a month from its termination, permit him to resume service in the brigade forthwith in a rank not lower than that which he held when he retired with the pension; and if the fire authority fail to comply with the requirements of this paragraph the termination shall be void and shall be deemed never to have taken effect.

(4) Where the unsecured portion of a person's ill-health pension is terminated under this Article—

- (a) the secured portion of that pension shall not be payable in respect of any period before he attains the age of 65 years; and
- (b) if the person is also in receipt of an injury pension under Article 15, the injury pension shall be terminated.

Reassessment of fireman's injury pension

19.—(1) Where a person is in receipt of a fireman's injury pension, the fire authority shall, at such intervals as they think fit, consider whether the degree of his disablement has substantially altered, and if they find that it has, the pension shall be reassessed accordingly.

(2) Where the person concerned is not also in receipt of an ordinary, ill-health or short service pension, if on any such reconsideration it is found that his disability has ceased, his injury pension shall be terminated.

(3) This Article shall cease to have effect with respect to a particular injury pension if, at any time after the expiration of 5 years from the time when the pension first became payable, the fire authority so resolve.

Reduction of award in case of default

20. Where a person is permanently disabled and he has brought about or contributed to his infirmity by his own default or his vicious habits, the fire authority may reduce the amount of any ill-health or injury award or deferred pension payable to him by them by an amount not exceeding a half of that to which he would otherwise be entitled.

Commutation of pension

21.—(1) A regular fireman may in accordance with the provisions of this Article commute for a lump sum a portion of any ordinary, ill-health, short service or deferred pension to which he is or may become entitled, provided in the case of an ordinary pension—

- (a) that he retires when entitled to reckon at least 30 years' pensionable service; or
- (b) that he is required to retire on account of age; or
- (c) that the notice of commutation referred to in paragraph (3) is given with the consent of the fire authority and that he retires when entitled to reckon at least 25 years' pensionable service and on or after attaining the age of 55 years.

(2) In the case of a deferred pension, the following provisions of this Article shall have effect as if any reference therein to retirement or the date thereof were a reference to the coming into payment of the deferred pension or the date thereof.

(3) For the purpose of commuting a portion of his pension a person shall give notice in writing (in this Article called "notice of commutation") to the fire authority of his wish to commute for a lump sum such portion of his pension not exceeding a quarter thereof as (subject to the limitation contained in Article 42) he may specify.

(4) The notice of commutation shall be given by a person not earlier than 2 months before his intended retirement nor later than 6 months after his retirement.

(5) The notice of commutation given by a person shall become effective—

- (a) as from the date on which it is received by the fire authority, or
- (b) as from the date of his retirement,

whichever is the later:

Provided that the said notice shall not become effective if—

- (i) it was given more than 2 months before his retirement, or
- (ii) it relates to an ill-health pension and the unsecured portion of that pension has sooner been terminated under Article 18.

(6) Where a person retires or has retired and a notice of commutation given by him has become or becomes effective, the fire authority shall reduce the pension to which the notice relates in accordance with the notice as from the time from which the notice is effective and shall pay to him a lump sum of such amount as is the actuarial equivalent of the surrendered portion of the pension at the date of his retirement, calculated from tables prepared by the Government Actuary:

Provided that where the notice is effective as from the time mentioned in paragraph (5)(a), the lump sum shall be reduced by an amount equal to the difference between the aggregate payments made in respect of the pension and the aggregate payments which would have been so made had it been reduced from the date of the retirement.

(7) For the purposes of this Article no account shall be taken of any increase under Article 73(3) or 76 in an award to a serviceman.

(8) Without prejudice to the generality of Article 1(3) but subject to the transitory provisions contained in Appendix 3 to the Firemen's Pension Scheme Order 1973, the commutation of a pension, the giving of a notice or any other thing done under Article 20 of the Firemen's Pension Scheme 1971 shall have effect for the purposes of this Article as if done thereunder.

PART III

AWARDS ON DEATH OF REGULAR FIREMEN

Widows

Widow's ordinary pension

22.—(1) This Article shall apply to a widow of a regular fireman entitled to reckon at least 3 years' pensionable service who—

- (a) dies while serving as such a fireman;
- (b) having retired with a pension, other than a deferred pension, granted in respect of service as such a fireman, dies while still in receipt of the pension; or
- (c) having retired from service as such a fireman on account of any injury, subsequently (without any intervening period of service as such) dies in consequence of that injury.

(2) A widow to whom this Article applies shall be entitled to an ordinary pension calculated in accordance with Part I and V of Schedule 2 subject, however, to the provisions of paragraph (3).

(3) Where the husband was serving as a regular fireman or entitled to a pension other than a deferred pension either—

- (a) on 1st July 1973, or
- (b) at the date of his death where that date is before 1st October 1973,

and he or, as the case may be, his widow has not exercised the rights of election accorded by Articles 58, 59, 60 and 61 for the purpose of avoiding the application to the calculation of the widow's ordinary pension—

- (i) of paragraphs 2 and 3 of Part II of Schedule 2 where, before 1st April 1972, he last paid pension contributions at a rate related to 5% of his pensionable pay, or
- (ii) of paragraph 3, in any other case,

then the said Part II shall apply and, accordingly, for the purposes of calculating the widow's ordinary pension, Part I of Schedule 2 shall have effect subject to the provisions of Part II.

Widow's special award

23.—(1) This Article shall apply to a widow of a regular fireman who dies from the effects of a qualifying injury or from the effects of infirmity of mind or body occasioned by such an injury.

(2) A widow to whom this Article applies shall be entitled to a widow's special pension and, in addition but subject to paragraph (5), to a gratuity.

(3) Without prejudice to Article 24(2), a widow's special pension shall be calculated in accordance with Parts III and V of Schedule 2.

(4) Without prejudice to Article 24(3), a gratuity under paragraph (2) shall be of an amount, subject to paragraph (5) equal to 25% of the husband's average annual pensionable pay.

(5) Where the husband was entitled to an injury gratuity under Article 15—

- (a) if it equalled, or exceeded, 25% of his average annual pensionable pay, the gratuity under paragraph (2) shall not be payable;
- (b) in any other case, the gratuity under paragraph (2) shall be reduced by the amount of the husband's gratuity.

Widow's augmented award

24.—(1) This Article shall apply to a widow of a regular fireman who dies from the effects of a qualifying injury or from the effects of infirmity of mind or body occasioned by such an injury where one of the following conditions is satisfied, namely that—

- (a) the injury was received in the execution of duties which were performed by the fireman—
 - (i) for the immediate purpose of saving the life of another person or of preventing loss of human life, and
 - (ii) in circumstances in which there was an intrinsic likelihood of his receiving a fatal injury, or
- (b) the fire authority are of the opinion that the preceding condition may be satisfied, and that this Article should apply, or
- (c) the fire authority are of the opinion that the injury was received otherwise than as aforesaid but in the course of duties performed in such circumstances that it would be inequitable if there were not payable in respect of him such an award as would have been payable had the condition specified in sub-paragraph (a) been satisfied.

(2) For the purpose of calculating the special pension payable to a widow to whom this Article applies, Part III of Schedule 2 shall have effect as if for the reference in paragraph 1 thereof to 45% of the husband's average pensionable pay there were substituted a reference to 50% thereof.

(3) The gratuity payable under Article 23(2) to a widow to whom this Article applies shall not be less than it would have been had this Article not so applied but, subject as aforesaid, Article 23(4) and (5) shall not apply to the gratuity which shall be of an amount equal to twice the annual pensionable pay, at the date of the husband's death, of a regular fireman—

- (a) holding the rank of fireman in the fire brigade maintained by the Greater London Council, and
- (b) entitled to reckon 30 years' service for the purposes of pay.

Widow's accrued pension

25.—(1) This Article shall apply to a widow of a regular fireman who dies while entitled to a deferred pension, whether or not that pension has come into payment.

(2) A widow to whom this Article applies shall be entitled to an accrued pension calculated in accordance with Parts IV and V of Schedule 2.

Widow's gratuity by way of commuted pension

26.—(1) Where a widow is entitled to an ordinary or special pension and the fire authority are satisfied that there are sufficient reasons for granting her a gratuity in lieu thereof, they may, subject to the provisions of Article 40, in their discretion and with her consent commute the pension for a gratuity of an amount calculated in accordance with Part VI of Schedule 2.

(2) Where the fire authority are precluded by reason of the provisions of Article 40 from exercising their discretion under the preceding paragraph in the manner in which they would, but for those provisions, exercise it, they may, subject to those provisions, exercise that discretion in relation to part only of the pension.

Widow's award where no other award payable

27.—(1) This Article shall apply to a widow of a regular fireman who dies while serving as such.

(2) A widow to whom this Article applies shall, unless she is a widow to whom Article 22 or 23 applies, be entitled to an award under this Article.

(3) An award under this Article shall comprise—

- (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 sub-paragraph and of any children's allowances payable in respect of the husband's death is of the like amount as his pensionable pay for a week immediately before he died, and
- (b) an ordinary gratuity of an amount equal to the husband's average annual pensionable pay.

Right to widow's pension dependent on date of marriage

28. A woman shall not be entitled to a widow's award if she married her husband after he last ceased to serve as a regular fireman.

Special provisions where widow was living apart from her husband

29.—(1) Where a woman was living apart from her husband at the time of his death, no widow's award shall be paid to her unless—

- (a) he was then making regular contributions for her support or to her for the support of her child;
- (b) he was then liable to make such contributions by virtue of an agreement or of the order or decree of a competent court; or
- (c) the fire authority determine that, in the circumstances of the case, the award should be payable.

(2) Where a pension is payable under paragraph (1)(a) or (b), it shall be payable at a rate not exceeding the rate at which the husband was making or was liable to make such contributions as are therein mentioned:

Provided that if the fire authority in the circumstances of the case so determine, the pension 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 this Article.

(3) Where a gratuity is payable under paragraph (1)(c), it shall be payable in whole or in such part, as the fire authority think fit, and where a pension is so payable, it shall be payable for such period and at such rate as they think fit, not exceeding the rate at which it would be payable but for this Article.

Effect of remarriage

30.—(1) Where a widow's pension becomes payable to a woman, then, if she subsequently remarries, she shall not be entitled to receive any payment on account of the pension in respect of any period after her remarriage:

Provided that if at any time after her remarriage the woman again becomes a widow, or that marriage is dissolved, the fire authority may pay the whole or any part of the pension for such period after that time as they think fit.

(2) Where a widow's gratuity becomes payable to a woman, then, if she subsequently remarries, so much of the gratuity as has not been paid before her remarriage shall not be payable thereafter:

Provided that if at any time after her remarriage the woman again becomes a widow, or that marriage is dissolved, the fire authority may pay to her the whole or any part of the sums which they were actually or contingently liable to pay to her in respect of the gratuity immediately before her remarriage.

Adult Dependent Relatives

Dependent relative's special pension

31.—(1) This Article shall apply where a regular fireman dies from the effects of a qualifying injury or from the effects of infirmity of mind or body occasioned by such an injury and, in such case, shall apply—

- (a) to a parent or (without prejudice to the following sub-paragraph) to a brother or sister of the fireman who had attained the age of 19 years before the fireman's death, or
- (b) subject to his having attained the age of 19 years, to any child of the fireman whether or not he had attained that age before the fireman's death,

being a person who was substantially dependent on the fireman immediately before his death (in this Article referred to as a dependent relative).

(2) A dependent relative to whom this Article applies may be granted a special pension if the fire authority, having regard to all the circumstances of the case, in their discretion so determine.

(3) A dependent relative's special pension shall be calculated in accordance with Part VII of Schedule 2 and, subject to paragraph 3 thereof, shall be payable for such period or periods as the fire authority may, in their discretion, from time to time determine.

Dependent relative's gratuity

32.—(1) This Article shall apply where a regular fireman—

- (a) dies while serving as such a fireman; or
- (b) having retired with a pension other than a deferred pension granted in respect of service as such a fireman, dies while still in receipt of the pension,

and, in such case, shall apply to any relative of the fireman, being a person who was substantially dependent on him immediately before his death and is not entitled to an award under any other provision of this Scheme (in this Article referred to as a dependent relative).

(2) A dependent relative to whom this Article applies may, if the fire authority think fit, be granted a gratuity.

(3) The aggregate of all gratuities paid under this Article in respect of the death of any one person shall not exceed the amount of his aggregate contributions.

Children

Child's ordinary allowance

33.—(1) This Article shall apply to a child of a regular fireman who—

- (a) dies while serving as such a fireman;
- (b) having retired with a pension other than a deferred pension granted in respect of service as such a fireman, dies while still in receipt of the pension; or
- (c) having retired from service as such a fireman on account of any injury, subsequently (without any intervening period of service as such) dies in consequence of that injury.

(2) A child to whom this Article applies shall be entitled to a child's ordinary allowance calculated in accordance with Parts I and IV of Schedule 3.

Child's special allowance

34.—(1) This Article shall apply to a child of a regular fireman who dies from the effects of a qualifying injury or from the effects of infirmity of mind or body occasioned by such an injury.

(2) A child to whom this Article applies shall be entitled to a child's special allowance calculated in accordance with Parts II and IV of Schedule 3.

Child's special gratuity

35.—(1) This Article shall apply to a child of a regular fireman who dies from the effects of a qualifying injury or from the effects of infirmity of mind or body occasioned by such an injury where one of the conditions set out in Article 24(1) is satisfied and the fireman does not leave a widow entitled to a gratuity under Article 23(2).

(2) A child to whom this Article applies shall be entitled to a gratuity, as hereinafter provided, in addition to a child's special allowance.

(3) The gratuity under paragraph (2) shall be of the amount mentioned in paragraph (4) except that, where two or more such gratuities are payable in respect of the same person, each gratuity shall be of the said amount divided by the number of such gratuities.

(4) The said amount shall be of an amount equal to twice the annual pensionable pay, at the date of the father's death, of a regular fireman—

- (a) holding the rank of fireman in the fire brigade maintained by the Greater London Council, and
- (b) entitled to reckon 30 years' service for the purposes of pay.

Child's accrued allowance

36.—(1) This Article shall apply to a child of a regular fireman who dies while entitled to a deferred pension, whether or not that pension has come into payment.

(2) A child to whom this Article applies shall be entitled to an accrued allowance calculated in accordance with Parts III and IV of Schedule 3.

Child's gratuity by way of commuted allowance

37.—(1) Where a child is entitled to an allowance, and the fire authority are satisfied that there are sufficient reasons for the grant of a gratuity in lieu of an allowance, they may, subject to the provisions of Article 40, in their discretion and with the consent of the child's guardian commute the allowance for a gratuity of an amount calculated in accordance with Part V of Schedule 3.

(2) Where the fire authority are precluded by reason of the provisions of Article 40 from exercising their discretion under the preceding paragraph in the manner in which they would but for those provisions exercise it, they may, subject to those provisions exercise that discretion in relation to part only of the allowance.

Duration of child's allowance

38. A child's allowance shall not be payable in respect of the death of a regular fireman—

- (a) after the child has attained the age of 16 years unless he is undergoing full-time education or is an apprentice or is permanently disabled;
- (b) after the child has attained the age of 19 years, unless he is permanently disabled and has been so disabled since attaining that age or, where later, since the death of the fireman.

Limitation on child's award

39. A child's allowance or gratuity (other than a gratuity in lieu of an allowance) shall not be granted in respect of the death of a regular fireman—

- (a) to a child born on or after the date on which the fireman last ceased to be a regular fireman otherwise than of a marriage which took place before that date (hereinafter referred to as "the relevant date");
- (b) by virtue of his being a step-child, to a child whose mother married the fireman on or after the relevant date;
- (c) by virtue of his being substantially dependent on the fireman, to a child who was not so dependent before the relevant date;
- (d) by virtue only of his being an adopted child, to a child adopted or on after the relevant date;
- (e) except in the case of a legitimate child of the fireman, to a child who was not substantially dependent on the fireman at the time of his death, or
- (f) to a child who had attained the age of 19 years before the date of the fireman's death unless at that date he is permanently disabled;

and, without prejudice as aforesaid, a child's gratuity shall not be granted to a child who had attained the age of 16 years before the date of the fireman's death unless at that date he is undergoing full-time education or is an apprentice or is permanently disabled.

*General**Limitation on discretion to grant a gratuity in lieu of a pension or allowance*

40.—(1) Where a person has died while in receipt of an ordinary, ill-health, short service or deferred pension (in this Article referred to as "the principal pension"), the fire authority shall not under Article 26 or 37 substitute for the whole or any part of a widow's pension or child's allowance payable in respect of him a gratuity the actuarial value of which, when added to that of—

- (a) any other gratuity so substituted under Article 26 or 37, and
- (b) any lump sum paid under Article 21 by reason that a portion of the principal pension was commuted,

exceeds a quarter of the actuarial value of the principal pension, any reduction therein under the said Article 21 being ignored.

(2) For the purposes of this Article the actuarial value of a gratuity, lump sum or pension shall be the actuarial value at the time of the husband's or father's retirement as calculated by the Government Actuary.

(3) For the purposes of this Article no account shall be taken of an increase under Article 73(3) or 76 in an award to a serviceman.

PART IV**ALLOCATION OF PENSIONS AND GENERAL PROVISIONS AFFECTING
RIGHTS TO AWARDS***Allocation*

41.—(1) A regular fireman may, subject to and in accordance with this Article, allocate a portion of any pension, other than an injury pension, and notwithstanding that he has already allocated a portion of such a pension, he may—

- (a) where he is entitled to retire with an ordinary pension—
 - (i) allocate a further portion of his pension in favour of the beneficiary of a previous allocation, or
 - (ii) where that beneficiary has died, allocate a further portion of his pension in favour of some other beneficiary, and
- (b) in any case where (not having attained the age of 70 years) he proposes to marry or remarry, allocate a further portion of his pension in favour of his wife by that marriage.

- (2) For the purpose of allocating a portion of his pension a person shall—
- (a) within the time limits mentioned in paragraph (3), give notice in writing (in this Article called “notice of surrender”) to the fire authority maintaining the fire brigade in which he is serving or by whom his pension is payable stating—
 - (i) his wish to surrender such portion of his pension as, subject to the limitations contained in paragraph (4) and in Article 42, he may specify,
 - (ii) the person in whose favour the surrender is to take effect (in this Article called “the beneficiary”) being his wife or some other person who the fire authority are satisfied is substantially dependent on him; and
 - (b) provide the fire authority with such evidence of his good health as they consider satisfactory.
- (3) Notice of surrender shall be given—
- (a) where a person has not retired but is entitled to retire with an ordinary pension, before the person’s intended retirement;
 - (b) where a person in receipt of a pension who has not attained the age of 70 years proposes to marry or remarry and the beneficiary is his wife by that marriage, before but not earlier than 2 months before his intended marriage;
 - (c) where the pension is a deferred pension but the preceding sub-paragraph does not apply, before but not earlier than 2 months before the pension comes into payment;
 - (d) in any other case, before but not earlier than 2 months before the person’s intended retirement.
- (4) The total portion of a fireman’s pension which he may surrender in accordance with this Article shall not exceed a third thereof.
- (5) Where a person has complied with the provisions of sub-paragraphs (a) and (b) of paragraph (2), the fire authority shall forthwith send to him a written notification that they have accepted the notice of surrender, which shall become effective—
- (a) in such case as is mentioned in paragraph (3)(a)—
 - (i) as from the time when the notification is received by him or, if sent by post, as from the time when it would be received by him in the ordinary course of post, or
 - (ii) as from the date of his retirement, whichever is the earlier;
 - (b) in such case as is mentioned in paragraph (3)(b), if, and only if, the proposed marriage takes place within 2 months of giving the notice of surrender and in that event as from the date of the marriage;
 - (c) in such case as is mentioned in paragraph (3)(c), if, and only if, the deferred pension comes into payment within 2 months of giving the notice of surrender and in that event as from the date it comes into payment;
 - (d) in any other case, if, and only if, the person retired within 2 months of giving the notice of surrender and in that event as from the date of retirement.
- (6) Where a person retires or has retired and a notice of surrender given by him becomes effective—
- (a) the pension to which the notice relates shall be reduced in accordance with the notice (notwithstanding the previous death of the beneficiary) as from the date from which the pension is payable or on which the notice becomes effective, whichever is the later; and
 - (b) the fire authority shall, as from the person’s death, pay to the beneficiary specified in the notice, if that person survives him, a pension of such amount as is the actuarial equivalent of the surrendered portion of the pension so specified.
- (7) For the purposes of paragraph (6)(b) the actuarial equivalent of the surrendered portion of the pension shall be calculated from tables prepared by the Government Actuary and in force at the time when the notice of surrender became effective, which tables shall—

- (a) take account of the age of the regular fireman and of the age of the beneficiary at that time; and
- (b) make different provision according to whether or not the notice of surrender became effective in accordance with paragraph (5)(a), and separate calculations shall be made in respect of separate allocations.

(8) Where a person has allocated an ordinary pension and the allocation has taken effect and he was entitled to retire with an ordinary pension when he gave the notice of surrender, then—

- (a) if he dies before retiring, the fire authority shall pay to the beneficiary specified in the notice of surrender the like pension as they would have paid by virtue of that allocation if the fireman had retired immediately before he died;
- (b) if he retires with an ill-health pension, the foregoing provisions of this Article shall apply as if the allocation related to such pension.

(9) In the case of a chief officer or in Scotland a firemaster, in determining for the purposes of this Article—

- (a) whether he is entitled to retire with an ordinary pension; or
- (b) where he dies before retiring, the pension which would have been paid if he had retired immediately before he died,

no account shall be taken of the restriction on entitlement to an ordinary pension contained in Article 12(2).

(10) For the purposes of this Article no account shall be taken of an increase under Article 73(3) or 76 in an award to a serviceman.

(11) Without prejudice to the generality of Article 1(3) but subject to the transitory provisions contained in Appendix 3 to the Firemen's Pension Scheme Order 1973, the allocation of a pension, the giving of a notice or any other thing done under, or having effect for the purposes of Article 37 of the Firemen's Pension Scheme 1971(a) shall have effect for the purposes of this Article as if done thereunder.

Limitation on right to commute or allocate part of a pension

42.—(1) A regular fireman shall not under Article 21 commute for a lump sum nor under Article 41 allocate in favour of his wife or other dependant 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.

(2) For the purposes of this Article no account shall be taken of an increase under Article 73(3) or 76 in an award to a serviceman.

Prevention of duplication

43. Where, apart from the provisions of this Article, a person would be entitled to receive two or more pensions or allowances under this Scheme in respect of any particular period, he shall be entitled in respect of that period to receive that one only of those pensions or allowances which is for the time being greater than the others, or, if for the time being they are all equal, one only of the said pensions or allowances shall be paid:

Provided that, for the purposes of this Article, where a person 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, and there shall be disregarded—

- (a) a pension payable under Article 41(6) or (8);
- (b) a pension payable under Part X of this Scheme;
- (c) the secured portion of an ill-health pension the unsecured portion of which was terminated in the circumstances mentioned in Article 18(2), in so far as it is payable under Article 18(4).

(a) See S.I. 1971/145 (1971 I, p. 320).

Award not payable in case of transfer

44.—(1) Where a regular fireman retires from a brigade in pursuance of a written notice to the fire authority of his intention to retire for the purpose of joining another brigade, 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) Where paragraph (1) does not apply but a regular fireman retires or has retired from a brigade and after again becoming such a fireman in that or another brigade becomes entitled, in the circumstances mentioned in Article 48(1) or (4), to reckon as pensionable service the period of pensionable service he was entitled to reckon on retiring, then, subject to paragraph (4), any award to which he has become entitled on the occasion of that retirement shall cease to be payable.

(3) Where a regular fireman retires or has retired from a brigade and enters other pensionable employment in such circumstances that a transfer value becomes payable by the fire authority in respect of him, then, subject to paragraph (4), any award to which he has become entitled on the occasion of that retirement shall cease to be payable.

(4) Where an award under Article 16(4) ceases to be payable under paragraph (2) or (3), there shall continue to be payable—

(a) where the award ceases to be payable under paragraph (2) or (3), so much of the award as is unpaid and represents a return of such additional or further payments by way of contributions or lump sum as are mentioned in Articles 57, 58 and 59;

(b) where the award ceases to be payable under paragraph (3), so much of the award as is unpaid and would not have been payable had he paid pension contributions at a rate related to 5% of his pensionable pay.

Withdrawal of pension or allowance for misconduct

45.—(1) Where any person to whom a pension or allowance is payable—

(a) is sentenced for any offence to imprisonment for a term exceeding 12 months; or

(b) becomes or continues to be engaged in any business, occupation or employment which is illegal,
the fire authority may, in relation to that pension or allowance, exercise the powers conferred by this Article.

(2) In the case of an ordinary, short service, ill-health or deferred pension, the fire authority may—

(a) withdraw the unsecured portion of the pension in whole or in part and either temporarily or permanently;

(b) withdraw the secured portion of the pension in whole or in part for a period before the pensioner attains the age of 65 years or during his imprisonment or detention in legal custody.

(3) In the case of any other pension or of an allowance, the fire authority may withdraw the award in whole or in part and either temporarily or permanently.

(4) So much of any pension or allowance as is withdrawn under this Article may, to such extent as the fire authority at any time think fit—

(a) be applied by that 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.

Withdrawal of pension during employment as a regular fireman

46. The fire authority by whom a pension is payable may, in their discretion, withdraw the whole or any part of the pension for any period during which the pensioner is employed as a regular fireman in any fire brigade.

PART V

PENSIONABLE SERVICE OF REGULAR FIREMEN

Current service in the brigade

47. A regular fireman shall be entitled to reckon as pensionable service—

- (a) any period of service as such, in the brigade in which he is serving, on or after 1st April 1972; and
- (b) where he was serving in that brigade both on and immediately before 1st April 1972, any period of pensionable service which he was entitled to reckon immediately before that date:

Provided that, subject as hereinafter provided, there shall not be reckonable as pensionable service—

- (i) where he has left and rejoined the brigade on or after 1st April 1972 any period of service before he last rejoined the brigade;
- (ii) any period of absence from duty as a fireman as a result of sickness or injury which is certified by a duly qualified medical practitioner to be due to his own misconduct or vicious habits; or
- (iii) any period of absence from duty as a fireman without pay, including any period of suspension from duty terminating with the fireman having been found guilty of an offence against discipline or a criminal offence.

Previous service in a brigade

48.—(1) Subject to paragraph (3) and to Article 59(4), where a regular fireman—

- (a) retires or has retired from a brigade—
 - (i) without a pension or with a deferred pension which he has relinquished under Article 16(2), and
 - (ii) without a transfer value becoming payable by the fire authority (otherwise than under Article 71), and
- (b) within twelve months of so retiring and without any intervening service as a regular fireman rejoins or has rejoined that brigade or joins or has joined another brigade,

he shall be entitled to reckon as pensionable service the period of pensionable service he was entitled to reckon on so retiring, but subject to his undertaking, within 6 months of rejoining or, as the case may be, joining the brigade or within such longer period as the fire authority may in his case allow, to pay in accordance with Schedule 4 the sum, if any, mentioned in paragraph (2).

(2) The sum referred to in paragraph (1) shall be equal to the aggregate of—

- (a) any sum paid to him by way of gratuity or return of aggregate contributions on retirement less so much of such sum, if any, as represents a return of such additional or further payments by way of contributions or lump sum as are mentioned in Articles 57, 58 and 59; and
- (b) the balance of any sum he had undertaken to pay, in accordance with the provisions of Schedule 4 or the corresponding provisions of a previous Firemen's Pension Scheme, which was outstanding immediately before his retirement.

(3) In the case of a person who has completed less than 2 years' service as a regular fireman, paragraph (1) shall apply only where he retires or has retired from one brigade for the purpose of joining another brigade and joins that brigade with the written consent of the fire authority maintaining the first-mentioned brigade, and such consent may be given after he has left the first-mentioned brigade if he has applied to the fire authority for such consent while still a member of the brigade.

(4) Where a regular fireman—

- (a) retires or has retired from a brigade with an ill-health pension; and

(b) resumes service in the brigade in the circumstances and within the period mentioned in Article 18(3),
 he shall be entitled to reckon as pensionable service the period of pensionable service he was entitled to reckon on so retiring.

(5) Where a regular fireman—

(a) retires or has retired from a brigade without a pension, other than an ill-health pension the unsecured portion of which has been terminated in the circumstances mentioned in Article 18(2);

(b) without any intervening service as a regular fireman rejoins or has rejoined that brigade or joins or has joined another brigade; and

(c) cannot under paragraph (1) or (4) reckon as pensionable service the period of pensionable service he was entitled to reckon on so retiring,

he shall be entitled to reckon that period as pensionable service, but subject to his undertaking, within 6 months of rejoining or, as the case may be, joining the brigade, or within such longer period as the fire authority may in his case allow, to pay in accordance with Schedule 4 a sum calculated in accordance with Schedule 5.

Period during which an injury or a special pension was payable

49.—(1) Subject to Article 59(4), where a regular fireman—

(a) retires or has retired from a brigade with an injury pension or, before 1st April 1972, with a special pension; and

(b) resumes or has resumed service in the brigade in the circumstances and within the period mentioned in Article 18(3),

he shall be entitled to reckon as pensionable service the period for which that pension was payable, but subject to his undertaking, within 6 months of resuming service in the brigade or within such longer period as the fire authority may in his case allow, to pay in accordance with Schedule 4 a sum equal to the aggregate of the pension contributions (other than such additional or further contributions as are mentioned in Articles 57 and 58) which would have been payable by him for that period had he continued to serve as a regular fireman in the brigade in the rank he held immediately before his retirement.

(2) For the purposes of this Article a person shall be treated as having been entitled to, and in receipt of, an injury or, as the case may be, special pension if such a pension would have been payable but for the amount of some benefit payable to him under the enactments relating to national insurance (including industrial injuries).

Absence from duty in the brigade without pay

50.—(1) Where a regular fireman is or has been absent from duty without pay, the fire authority may, at any time while he is such a fireman in their brigade, resolve that the whole or any part of the period of absence shall be reckoned as pensionable service for the purposes of this Scheme.

(2) Where by virtue of any such resolution as aforesaid any period is reckoned as pensionable service, the fireman shall become liable to pay to the fire authority the contributions (including such additional or further contributions as are mentioned in Articles 57 and 58) which would have been payable by him for that period if he had been paid at the rate applicable to his case.

Previous local government service

51.—(1) Subject to Article 59(4), this Article shall apply in the case of a person—

(a) who before becoming a regular fireman was in employment by virtue of which he was or was deemed to be a contributory employee or a local Act contributor within the meaning of the Local Government Superannuation Act 1937(a); and

(b) in respect of whom a transfer value relating to his former employment is paid to the fire authority under rules made under sections 2 and 15 of the Superannuation (Miscellaneous Provisions) Act 1948(b).

(a) 1937 c. 68.

(b) 1948 c. 33.

(2) Subject to paragraphs (3) and (4) such a person as is mentioned in the preceding paragraphs shall be entitled to reckon as pensionable service the aggregate of—

- (a) 3 quarters of the period of contributing service; and
- (b) 3 eighths of the period of non-contributing service,

which he would have been entitled to reckon had he on becoming a regular fireman become a contributory employee within the meaning of the Local Government Superannuation Act 1937 entitled to the benefit of section 13 of that Act.

(3) Where he would have been entitled in the circumstances mentioned in the preceding paragraph to reckon a period as contributing service subject to his making certain payments by way of—

- (a) additional contributory payments in discharge of a fixed sum; or
- (b) additional contributions for added years,

whether on giving notice in that behalf or otherwise, then he shall and shall only be entitled to reckon 3 quarters of that period as pensionable service if within 3 months of his becoming a regular fireman or within such longer period as the fire authority may in his case allow, he undertakes to pay in accordance with Schedule 4 a sum equal to the capital value of those additional payments or contributions as the case may be, as determined by the fire authority.

(4) Where in the exercise of their discretion under rules made under the Superannuation (Miscellaneous Provisions) Act 1948 the authority by whom he was employed in his former employment increase his service for the purposes of those rules, then for the purposes of this Article the service reckonable by him immediately before ceasing to hold his former employment shall be deemed to have been correspondingly increased.

(5) Any reference in this Article to the Local Government Superannuation Act 1937 shall be construed as including a reference to the Local Government Superannuation (Scotland) Act 1937(a).

Previous service other than fire or local government service

52.—(1) Subject to Article 59(4), this Article shall apply in the case of a regular fireman—

- (a) who before becoming a regular fireman was in such service or employment as is mentioned in Schedule 6 (hereafter referred to in this Article as “former service”) by virtue of which he was subject to superannuation arrangements;
- (b) who last became a regular fireman within 12 months of the termination of his former service or within such longer period as may be agreed, in the circumstances of his case, between the fire authority and the authority specified in Schedule 6 in relation to his former service;
- (c) in respect of whom such a transfer value relating to his former service as is mentioned in Schedule 6 is paid to the fire authority;
- (d) who, within 3 months of his becoming a regular fireman or (subject to paragraph 2 of Part I of Schedule 6) within 6 months of the date specified in Schedule 6 in relation to his former service, whichever is the later, or within such longer period as the fire authority may allow in his case, undertakes to pay in accordance with Schedule 4—
 - (i) a sum equal to the balance of any liability outstanding immediately before the termination of his former service in respect of payments or contributions he was then making as a condition of reckoning past service as contributing service or otherwise for the purposes of the said superannuation arrangements, being service of which account has been taken in the calculation of the said transfer value, together with
 - (ii) a sum equal to the amount, if any, by which the said transfer value falls to be reduced on account of any gratuity or award by way of return of contributions made under the said arrangements on the termination of his former service.

- (2) Where under the superannuation arrangements mentioned in paragraph (1)—
- (a) a maximum pension is provided (otherwise than on retirement occasioned by injury or ill-health) for a person entitled to reckon 30 years' service for the purposes thereof, or
 - (b) after 20 years' service each year of service is reckonable as 2 years' service for the purposes thereof,

then such a person as is mentioned in paragraph (1) who was subject to those arrangements shall be entitled to reckon as pensionable service the whole of the period specified in paragraph (4), so, however, that, where under those arrangements such provision as is mentioned in sub-paragraph (a) or (b) is made in relation only to service or employment of a description designated therein (in this paragraph referred to as "designated service") and the former service included designated service, there shall be reckonable as aforesaid—

- (i) the whole of that part of the period specified in paragraph (4) as is referable to designated service, and
- (ii) 3 quarters of that part of that period as is not so referable.

(3) In any other case, such a person as is mentioned in paragraph (1) shall be entitled to reckon 3 quarters of the period specified in paragraph (4).

(4) The period referred to in paragraphs (2) and (3) is—

- (a) the period of service which is or was reckonable for the purpose of calculating the transfer value; or
- (b) where separate calculations are or were made in respect of contributing and non-contributing service reckonable for the purpose of calculating the said transfer value, the aggregate of the period of contributing service and a half of the period of non-contributing service which is so reckonable.

(5) In this Article the expression "award by way of return of contributions" has the meaning assigned thereto by Article 5(2).

Certificates of pensionable service

53.—(1) Where a regular fireman becomes entitled to reckon a period of service as pensionable service for the purposes of this Scheme by virtue of Article 48, 49, 51, 52 or 78, then the fire authority shall, within a period of 6 months, supply him with a certificate showing the pensionable service he was entitled to reckon on the date on which he became entitled to reckon the said period of such service.

(2) Where a fireman is dissatisfied with a certificate supplied to him in accordance with the provisions of the preceding paragraph, he may, within 3 months of being supplied with it, appeal to the Secretary of State who shall either confirm or vary the said certificate.

(3) Where in accordance with the preceding provisions of this Article a certificate has been supplied to a fireman and he has not appealed to the Secretary of State within the period of 3 months aforesaid, or where a certificate has been confirmed or varied on such an appeal, then the certificate as supplied, confirmed or varied, as the case may be, shall be conclusive as to the pensionable service which the fireman was entitled to reckon on the date to which it refers.

(4) Where a fireman is entitled to a certificate under paragraph (1) but claims a pension or gratuity or dies—

- (a) before the certificate has been supplied, then the obligation to supply a certificate shall cease;
- (b) after the certificate has been supplied but before it has become conclusive, then the certificate shall cease to have effect and no further proceedings under paragraph (2) shall take place.

(5) For the purposes of this Article a fireman shall be treated as only becoming entitled to reckon service under Article 78 if and when he resumes service in his former brigade.

Prevention of double reckoning

54. A regular fireman who is entitled to reckon a period as pensionable service under any provision of this Part of this Scheme shall not be entitled also to reckon that period under some other such provision.

PART VI

PENSIONABLE PAY, CONTRIBUTIONS AND OTHER ADDITIONAL AND FURTHER PAYMENTS

Pensionable pay and average pensionable pay

55.—(1) In this Scheme the expression “pensionable pay” means the pay of a regular fireman as determined in relation to his rank or, in the case of a chief officer or an assistant chief officer or, in Scotland, a firemaster or an assistant firemaster, his pay as determined for the post.

(2) For the purpose of determining the benefits payable under this Scheme on the death or retirement of a regular fireman—

(a) the expression “average annual pensionable pay” means, subject to paragraphs (3) and (4), the aggregate of his pensionable pay during the period of a year ending with the relevant date:

Provided that where he was in receipt of pensionable pay for part only of that period, the said aggregate shall be multiplied by the reciprocal of the fraction of the year for which he was in receipt of pensionable pay; and

(b) the expression “average pensionable pay” means the average annual pensionable pay divided by 52 $\frac{1}{2}$.

(3) Where the amount of a fireman’s average annual pensionable pay, determined in accordance with paragraph (2), is less than the amount it would have been had he not suffered a reduction of pay during sick leave or a stoppage of pay by way of punishment, it shall be increased by the difference between the two said amounts.

(4) Where the amount of a fireman’s average annual pensionable pay, determined in accordance with paragraphs (2) and (3), is less than the amount it would have been had the relevant date been the corresponding date in one of the two preceding years (whichever year yields the higher amount), it shall be increased by the difference between the two said amounts.

(5) Where an award is made to or in respect of a regular fireman the relevant date for the purpose of determining his average annual pensionable pay shall be the date of his last day of service as such a fireman.

Rate of payment of pension contributions

56.—(1) Subject to the provisions of this Scheme, a regular fireman shall pay pension contributions to the fire authority at the rate of 6p a week less than 6.75% of his pensionable pay.

(2) In the case of a person who—

(a) served before the appointed day in a fire brigade maintained by a local authority or in the National Fire Service;

(b) became a regular fireman on the appointed day or, where he was then a member of the armed forces of the Crown, after next ceasing to be such a member and without any intervening service in another capacity; and

(c) did not elect to pay pension contributions at the lower rate under Article 38 of the Firemen’s Pension Scheme 1948(a),

this Article shall, subject to the proviso to paragraph (4), apply subject to the provisions of that paragraph.

(3) In the case of a person who—

(a) is entitled to reckon a period as pensionable service by virtue of service or employment otherwise than as a regular firemen in respect of which he was subject to superannuation arrangements; and

(b) has been excepted from the operation of any regulations made under section 69(4) of the National Insurance Act 1946(b) or section 110(1) of the National

(a) See S.I. 1948/604 (Rev. VII, p. 776: 1948 I, p. 1091).

(b) 1946 c. 67.

Insurance Act 1965(a) or of any other provisions modifying the said arrangements in connection with the passing of the said Act of 1946, this Article shall, subject to the proviso to paragraph (4), apply subject to the provisions of that paragraph.

(4) In the case of a person such as is mentioned in paragraph (2) or (3), this Article shall apply as if for any reference to a rate of 6p a week less than a percentage of his pensionable pay there were substituted a reference to the rate of 1p a week less than that percentage of his pensionable pay:

Provided that in the case of a person who has previously retired from service as a regular fireman, otherwise than with an ill-health pension, and resumed service as such later than a year after that retirement this paragraph shall have effect only if he is such a person as is mentioned in paragraph (3) by reason of his being entitled to reckon pensionable service by virtue of such service or employment as is there mentioned which he entered after his previous retirement.

Additional contributions—preserved provisions

57.—(1) Where a man elected, in accordance with Article 40 of the Firemen's Pension Scheme 1966(b), to pay additional pension contributions and has not since he so elected become entitled to reckon 25 years' pensionable service or retired, he shall pay such contributions at a rate calculated in accordance with paragraph 1 of Part I of Schedule 7 until such time as he becomes entitled to reckon 25 years' pensionable service or retires, whichever is the earlier.

(2) In this Article a reference to a person's retirement is a reference to his retirement otherwise than in pursuance of a written notice to the fire authority of his intention to retire for the purpose of joining another brigade.

Additional and further payments by way of contributions—current provisions

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

- (a) is, on 1st July 1973, serving as such, and entitled to reckon less than 41 years' and 3 months' pensionable service, and
- (b) cannot, before 1st April 1977, be required to retire on account of age in accordance with Article 96.

(2) A man to whom this Article applies who, before 1st April 1972, last paid pension contributions at a rate related to 5% of his pensionable pay may, for the purpose of avoiding the application of paragraph 2 of Part II of Schedule 2 to the calculation of his widow's ordinary pension, elect to pay additional contributions at a rate calculated in accordance with paragraph 2 of Part I of Schedule 7.

(3) Subject to Article 62(2), a man to whom this Article applies may, for the purpose of avoiding the application of paragraph 3 of Part II of Schedule 2 to the calculation of his widow's ordinary pension, elect to pay further pension contributions at a rate calculated in accordance with paragraph 3 of Part I of Schedule 7.

(4) Where a man elects as mentioned in paragraph (2) or (3), he shall pay additional or, as the case may be, further pension contributions as from 1st April 1973 until, subject to paragraph (5), the following date, namely—

- (a) if, on 1st July 1973, he was entitled to reckon less than 19 years' pensionable service otherwise than by virtue of service as a regular fireman on or after 1st April 1972, the date on which he becomes entitled to reckon 25 years' pensionable service so, however, in determining the said date there shall be disregarded pensionable service reckonable by virtue of service or employment before 1st July 1973 which he was not then entitled to reckon;
- (b) in any other case, 1st April 1978.

(5) Additional or further pension contributions payable under this Article shall cease to be payable on retirement; but where a regular fireman was paying such

(a) 1965 c. 51.

(b) See S.I. 1966/1045 (1966 II, p. 2504).

contributions immediately before retiring with an ordinary pension that pension shall be reduced in accordance with paragraph 6 of Part VIII of Schedule 1.

(6) Notwithstanding anything in paragraphs (2) and (3), a man shall not so exercise the rights of election accorded by those paragraphs that the aggregate rate at which he is liable to pay pension contributions (including additional contributions under Article 57 or this Article and further contributions under this Article) exceeds 15% of his pensionable pay.

Additional and further payments by way of lump sum or reduction of pension

59.—(1) This Article shall apply to a regular fireman who is, on 1st July 1973—

(a) serving as such, or

(b) entitled to an ordinary, short service or deferred pension, having retired on or after 1st April 1972.

(2) A man to whom this Article applies who, before 1st April 1972, last paid pension contributions at a rate related to 5% of his pensionable pay may, for the purpose mentioned in Article 58(2), elect either—

(a) to make an additional payment by way of a lump sum calculated in accordance with paragraph 2 of Part II of Schedule 7, or

(b) that any ordinary, ill-health, short service or deferred pension payable to him shall be reduced in accordance with paragraph 2 of Part VIII of Schedule 1.

(3) Subject to Article 62(2), a man to whom this Article applies may, for the purpose mentioned in Article 58(3), elect either—

(a) to make a further payment by way of a lump sum calculated in accordance with paragraph 3 of Part II of Schedule 7, or

(b) that any ordinary, ill-health, short service or deferred pension payable to him shall be reduced in accordance with paragraph 3 of Part VIII of Schedule 1.

(4) In the case of a regular fireman to whom this Article applies by virtue of paragraph (1)(a), Article 48, 49, 51 or 52 shall only apply by virtue of the conditions specified in the Article in question being satisfied on or after 1st July 1973—

(a) where he has not elected as mentioned in paragraph (2)(b), if he agrees that any ordinary, ill-health, short service or deferred pension payable to him shall be reduced in accordance with paragraph 2 of Part VIII of Schedule 1;

(b) where he has not elected as mentioned in paragraph (3)(b), if he agrees that any such pension shall be reduced in accordance with paragraph 3 of the said Part VIII,

and, in the case of Article 51 or 52, so agrees within the period mentioned in Article 51(3) or, as the case may be, Article 52(1)(d).

Additional and further payments etc. in the case of an ill-health pensioner

60.—(1) This Article shall apply to a regular fireman who is, on 1st July 1973 entitled to an ill-health pension, having retired on or after 1st April 1972.

(2) A man to whom this Article applies who, before 1st April 1972, last paid pension contributions at a rate related to 5% of his pensionable pay may, for the purpose mentioned in Article 58(2), elect—

(a) to make additional payments in accordance with this Article, or

(b) that his ill-health pension be reduced in accordance with paragraph 2 of Part VIII of Schedule 1.

(3) Subject to Article 62(2), a man to whom this Article applies may, for the purpose mentioned in Article 58(3), elect either—

(a) to make further payments in accordance with this Article, or

(b) that his ill-health pension be reduced in accordance with paragraph 3 of Part VIII of Schedule 1.

(4) Where a man elects as mentioned in paragraph (2)(a) or (3)(a), he shall make additional or, as the case may be, further payments in respect of the period beginning with the date of his election which corresponds in duration with that of his service as a regular fireman on or after 1st April 1972, being payments equivalent to the payments by way of additional or further pension contributions in respect of that period of service which he would have made had he been liable to make such contributions calculated in accordance with paragraph 2 or, as the case may be, paragraph 3 of Part I of Schedule 7 so, however, that should he die before completing his additional or further payments, no such payments shall be due in respect of the period following his death.

(5) Where a man elects as mentioned in paragraph (2)(a) or (3)(a), the additional, or, as the case may be, further payments shall be made to the fire authority by whom his pension is payable and may, without prejudice to any other method of payment, be discharged by way of deductions of appropriate amounts made by that authority from instalments of his pension.

Additional and further payments in the case of deceased fireman

61.—(1) This Article shall apply in the case of a regular fireman who dies or has died on or after 1st April 1972 but before 1st October 1973—

- (a) either while serving as such or having retired on or after 1st April 1972, and
- (b) not having exercised any right of election accorded by Article 58, 59 or 60.

(2) The widow of a man in whose case this Article applies who, before 1st April 1972, last paid pension contributions at a rate related to 5% of his pensionable pay may, for the purpose of avoiding the application of paragraph 2 of Part II of Schedule 2 to the calculation of her widow's ordinary pension elect to make additional payments in accordance with this Article.

(3) Subject to Article 62(2), the widow of a man in whose case this Article applies may, for the purpose of avoiding the application of paragraph 3 of Part II of Schedule 2 to the calculation of her widow's ordinary pension, elect to make further payments in accordance with this Article.

(4) Where a widow elects as mentioned in paragraph (2) or (3), the provisions of paragraphs (4) and (5) of Article 60 shall apply, subject to the necessary adaptations, as they apply where a man elects as mentioned in paragraph (2)(a) or (3)(a) of the said Article.

Provisions supplemental to Articles 57 to 61

62.—(1) In the case of a regular fireman to whom both Articles 58 and 59 apply, the rights of election accorded by paragraph (2) or, as the case may be, paragraph (3) of each of those Articles shall be alternative rights.

(2) Where a regular fireman last paid pension contributions before 1st April 1972 at a rate related to 5% of his pensionable pay—

- (a) he shall not exercise the right of election accorded by either Article 58(3) or Article 59(3) unless he also exercises the right of election accorded by either Article 58(2) or Article 59(2);
- (b) he shall not exercise the right of election accorded by paragraph (3) of Article 60 unless he also exercises the right of election accorded by paragraph (2) thereof;
- (c) his widow shall not exercise the right of election accorded by paragraph (3) of Article 61 unless she also exercises the right of election accorded by paragraph (2) thereof.

(3) Any election under Article 58, 59, 60 or 61 shall be made by notice in writing to the fire authority maintaining the fire brigade in which the man is serving or by whom his or his widow's pension is payable.

(4) Any such election, and any payment of a lump sum in pursuance of an election under Article 59, shall be made before 1st October 1973 except that a widow of a man who has died before the said date may exercise a right of election accorded by Article 61 on or after the said date if she does so within 3 months of his death.

(5) Where a regular fireman elects under Article 59 or Article 60 that his pension shall be reduced and, on the date on which he so elects, he is in receipt of an ordinary, ill-health, short service or deferred pension, that pension shall be recalculated as from the date from which it became payable.

(6) Any reference in Articles 57 and 58 to retirement shall be construed as excluding a reference to a man's retirement in pursuance of a written notice to the fire authority of his intention to retire for the purpose of joining another brigade.

Method of payment of pension contributions

63. The pension contributions (including additional and further contributions, if any) upon each instalment of pay shall fall due at the same time as that instalment and may, without prejudice to any other method of payment, be discharged by way of a deduction of an appropriate amount made by the fire authority from the said instalment.

Repayment of contributions on death

64. Where a regular fireman dies while serving as such and either no pension, allowance or gratuity is payable in respect of his death or the aggregate of—

- (a) any gratuity so payable; and
- (b) the actuarial value of any pension or allowance so payable (calculated in accordance with the tables prepared from time to time by the Government Actuary),

is less than his aggregate contributions, an award shall be made to his estate by way of repayment of his aggregate contributions or of so much thereof as represents the difference, as the case may be.

Repayment of contributions on dismissal

65.—(1) Where a regular fireman is dismissed from the brigade otherwise than for one of the offences mentioned in paragraph (3), the fire authority shall repay to him his aggregate contributions.

(2) Where a regular fireman is dismissed from the brigade for one of the offences mentioned in paragraph (3), the fire authority may in their discretion—

- (a) repay to him his aggregate contributions wholly or in part;
- (b) apply his aggregate contributions wholly or in part for the benefit of his dependants;
- (c) retain his aggregate contributions wholly or in part.

(3) The offences referred to in paragraphs (1) and (2) are the following disciplinary offences:—

- (a) by carelessness or neglect suffering any loss, damage or injury to occur to any person or property (which offence is specified in paragraph (4)(b) of the code of disciplinary offences set out in the Schedule to the Fire Services (Discipline) Regulations 1948(a) and in the Schedule to the Fire Services (Discipline) (Scotland) Regulations 1953(b));
- (b) failing to account for, or to make a true return of any money or property which comes into the fireman's possession in the course of his duties (which offence is specified in paragraph (7)(b) of the said code), and
- (c) wilfully or negligently damaging any article of clothing or personal equipment with which the fireman has been provided or entrusted or failing to take proper care thereof (which offence is specified in paragraph (9)(a) of the said code).

(a) S.I. 1948/545 (Rev. VII, p. 757: 1948 I, p. 1059).

(b) S.I. 1953/1086 (1953 I, p. 766).

PART VII
DETERMINATION OF QUESTIONS AND APPEALS

General functions of fire authority

66.—(1) Subject as hereinafter provided, the question whether a person is entitled to any and if so what awards shall be determined in the first instance by the fire authority.

(2) Subject to the provisions of this Scheme, the fire authority shall consider the medical evidence of at least one duly qualified medical practitioner selected by the authority before determining for the purposes of this Scheme—

- (a) whether a person has been disabled;
- (b) whether any such disablement appears likely to be permanent;
- (c) whether a person's disablement has been occasioned by a qualifying injury;
- (d) whether a person has become capable of performing the duties of a fireman;
- (e) the degree to which a person has been disabled;
- (f) any other question which ought to be determined in whole or in part on medical grounds:

Provided that where an authority are unable to obtain such evidence by reason of the refusal or the wilful or negligent failure of any person to submit to medical examination by a duly qualified medical practitioner selected by the authority, the authority may dispense with such evidence and may give such decision on the question at issue as they may in their discretion choose to give, either without medical evidence or upon such medical evidence as they think fit.

Appeal against opinion of fire authority's medical practitioner

67.—(1) Where for the purposes of any decision which falls to be made by a fire authority under this Scheme any person is medically examined by a medical practitioner selected by the authority, the opinion of the practitioner shall be given in writing to the authority.

(2) If within 14 days of being informed by the fire authority of the decision the said person applies to the authority for a copy of the opinion, the authority shall supply him with a copy thereof.

(3) If he is dissatisfied with the opinion of which a copy has been so supplied to him, he may, subject to and in accordance with the provisions of Schedule 8, appeal against the opinion to an independent person nominated by the Secretary of State (hereinafter referred to as a "medical referee").

(4) A fire authority shall be bound by any decision on a medical question duly given on any such appeal.

Appeal against decision of fire authority

68.—(1) Where any person claims that he is entitled to an award or to any payment on account of an award and the fire authority do not admit the claim at all, or do not admit the claim to the full extent thereof, the person aggrieved may apply to the fire authority for reconsideration of the case, and, if aggrieved by the decision on such reconsideration, may appeal to the Crown Court.

(2) Subject as hereinafter provided, the Crown Court may, on an appeal under paragraph (1), make such order or declaration as appears to the court to be just.

(3) Nothing in this Article shall authorise the Crown Court—

- (a) to make an order or declaration controlling or restricting the exercise of any discretion which by this Scheme is vested in a fire authority;
- (b) to reopen any decision on a medical question which has been given on an appeal under Article 67; or

(c) to question any certificate of pensionable service given under Article 53 or any corresponding provision of the Firemen's Pension Scheme then in operation, which is deemed to be conclusive thereby.

(4) In the application of this Article to Scotland, for any reference to the Crown Court there shall be substituted a reference to the sheriff having jurisdiction in the place where the person concerned last served as a regular fireman.

PART VIII

PAYMENT OF AWARDS AND FINANCIAL PROVISIONS

Payment of awards generally

69.—(1) An award which is payable to or in respect of a person by reason of his having been employed as a regular fireman shall be payable by the fire authority by whom he was last employed as such.

(2) An award which is payable to or in respect of a person by reason of his having received an injury while employed as a member of a brigade otherwise than as a regular fireman, shall be payable by the fire authority by whom he was employed when he received the injury.

(3) Subject to the provisions of this Scheme, every pension or allowance shall be payable in respect of each week and shall, subject to such delay as may be necessary for the purpose of determining any question as to the liability of the fire authority in respect thereof, be discharged by payments in advance at such reasonable intervals as the fire authority may determine.

(4) Where a person dies after receiving a sum paid in advance on account of a pension or allowance, no claim for repayment shall be made on the ground that the said sum or any part thereof is referable to a period after his death.

(5) Where a widow remarries after receiving a sum paid in advance on account of a pension, no claim for repayment shall be made on the ground that the said sum or any part thereof is referable to a period after her remarriage.

(6) Subject to the provisions of this Scheme and, in particular, of Article 15 (injury pension) and of Article 16 (deferred pension), a pension payable to a fireman shall be payable as from the date of his retirement.

(7) A pension or allowance payable to the widow or child of a fireman shall be payable as from his death, or, in the case of an allowance payable to a posthumous child as from the birth of the child, except—

(a) where the fireman was in receipt of a pension and he died during a period in respect of which he had already received his pension, in which case the pension or allowance shall not be payable before the end of that period;

(b) where the fireman received a gratuity other than an injury gratuity under Article 15, in which case the pension or allowance shall be payable as from the first anniversary of his death or such earlier date as the fire authority, in the circumstances of the case, think fit.

(8) Subject to the provisions of this Scheme, every gratuity shall be paid in one sum: Provided that where a fire authority are satisfied that it would be to the advantage of the beneficiary to pay a gratuity in instalments, they may pay it in instalments of such reasonable amounts and over such reasonable period as they think fit.

(9) Without prejudice to the provisions of any such regulations as are mentioned in section 60(5) of the National Insurance Act 1965 and for the time being in force, where a regular fireman is entitled under Article 16(4) to an award by way of repayment of his aggregate contributions the fire authority shall be under no obligation to make payment until the expiration of a year from the date of his retirement or until he requests payment, whichever first occurs.

(10) From any payment on account of an award made to a fireman during his lifetime which constitutes a repayment of contributions within the meaning of paragraph 2 of Part II of Schedule 5 to the Finance Act 1970(a) the fire authority may deduct the tax for the time being chargeable thereon under the said paragraph 2.

Payment of awards in special cases

70.—(1) Where any sum is due on account of a pension, and any debt is due to the fire authority from the pensioner, so much of the said sum as does not exceed the debt may be applied by the authority in or towards the satisfaction of the debt:

Provided that where the pension is an ordinary, ill-health or short service pension, and the sum due is in respect of a period beyond the age of 65 years, only so much of the sum as is due on account of the unsecured portion of the pension may be applied as mentioned in this paragraph.

(2) If it appears to the fire authority that a pensioner is by reason of mental disorder or otherwise incapable of managing his affairs, the authority may in their discretion pay the pension or any part thereof to any person having the care of the pensioner, and, in so far as they do not dispose of the pension in that manner, may apply it in such manner as they think fit for the benefit of the pensioner or his dependants.

(3) On the death of a person to whom or to whose estate a sum not exceeding £500 is due on account of a pension, the fire authority may, without probate, confirmation or any other formality or proof of title, pay the said sum to the persons appearing to the authority to be beneficially entitled to the personal estate of the deceased, or, as the authority think fit, pay the said sum to one or more of those persons or distribute it among all or any of those persons in such proportions as the authority may determine.

(4) Where any sum is payable to a minor on account of a pension, the authority may, if they think fit, in lieu of paying the said sum to the minor, pay it to such other person as they may determine.

A person who receives any sum paid under this paragraph shall, subject to and in accordance with any directions of the fire authority, apply the said sum for the minor's benefit.

(5) Every assignment or charge on a pension shall be void to the extent that—

(a) it is in favour of a person other than a relative of the pensioner, or

(b) it relates to a sum due to an ordinary, ill-health, short service or deferred pensioner, in respect of a period beyond the age of 65 years, on account of the secured portion of the pension.

(6) A pension shall not pass to a trustee in bankruptcy or any other person acting on behalf of creditors of the pensioner.

(7) This Article shall apply with respect to awards other than pensions as it applies with respect to pensions, and accordingly any reference in this Article to a pension shall be construed as including a reference to any such award, and any reference therein to a pensioner shall be construed as including a reference to a person to whom any such award is payable.

(8) In the application of this Article to Scotland—

(a) the reference in paragraph (3) to the personal estate of the deceased shall be construed as a reference to his movable estate;

(b) any reference in paragraph (4) to a minor shall be construed as including a reference to a pupil.

Payment of transfer values

71. Where a regular fireman retires or has retired from a brigade and after again becoming such a fireman in another brigade becomes entitled under Article 48(1) to reckon as pensionable service the period of pensionable service he was entitled to reckon on retiring, the fire authority maintaining the first-mentioned brigade shall pay to the fire authority maintaining the other brigade a sum by way of transfer value calculated in accordance with Schedule 9.

Expenses and receipts of fire authorities

72.—(1) Every fire authority shall maintain an account showing all sums received or paid by the authority under, or for the purposes of this Scheme or a previous Firemen's Pension Scheme.

(2) If and so long as the fire authority maintain a pension reserve account in accordance with paragraph (3) the account mentioned in paragraph (1) shall be separate from any account maintained by the fire authority which shows sums received or paid by the authority (not being such sums as are there mentioned) other than sums received or paid under rules made by virtue of section 9 of the Fire Services Act 1959(a), or payments in lieu of contributions made in respect of regular firemen.

(3) A fire authority which maintained a pension reserve account immediately before 1st July 1973 shall continue to maintain such an account on and after that day until it is exhausted in accordance with paragraph (4).

(4) Where in any year the payments debited to the account mentioned in paragraph (1) exceed the receipts credited thereto, and the fire authority maintain a pension reserve account, the balance shall be met out of the pension reserve account to the extent thereof.

(5) In this Article the expression "year" means a year beginning on the anniversary of the appointed day.

PART IX

SERVICEMEN

Awards to servicemen

73.—(1) This Article shall apply in the case of a serviceman who at the end of his period of relevant service in the armed forces is permanently disabled.

(2) Such a person shall be entitled to the same award on the same conditions in all respects as if he had retired from his former brigade at the end of the said period on the ground that he had been so disabled.

(3) Where the infirmity of mind or body is occasioned by an injury received during the person's period of relevant service in the armed forces or by a qualifying injury, the fire authority may, in their discretion—

- (a) pay him, in lieu of a gratuity, a pension at the rate of a twelfth of his average pensionable pay; and
- (b) increase any pension payable under this Article, so however that the increased pension, when aggregated with any service pension other than an allowance for constant attendance, wear and tear of clothing, or comforts, shall not be payable at a rate exceeding that of the aggregate of the pensions to which he would have been entitled had the injury been treated, for the purposes of the preceding paragraph, as if it were a qualifying injury.

Awards on death of servicemen

74.—(1) This Article shall apply in the case of a serviceman who—

- (a) dies during his period of relevant service in the armed forces; or
- (b) having been permanently disabled at the end of the said period (without any intervening period of service as such a fireman) dies from the effects of the injury that resulted in his disablement or while in receipt of a pension.

(2) Such a person's widow shall—

- (a) if he was entitled to reckon 3 years' pensionable service, be entitled to a pension as though he were a person mentioned in Article 22(1); or
- (b) if she is not so entitled to a pension and if her husband died during his period of relevant service in the armed forces, be entitled to an award under Article 27 as though he died while serving as a regular fireman.

(3) Any child of such a person shall be entitled to an allowance as though he were mentioned in Article 33.

(4) Where such a person dies from the effects of an injury received during his period of relevant service in the armed forces or of a qualifying injury, the fire authority may, in their discretion—

- (a) pay to the widow, in lieu of a gratuity, a pension at the rate of £163.81 a year; and
- (b) increase any pension or allowance payable under this Article, so however that the increased award, when aggregated with any service pension payable to or for the widow or child, as the case may be, in respect of the serviceman, shall not be payable at a rate exceeding that of the award to which the widow or child, as the case may be, would have been entitled had the serviceman died from the effects of a qualifying injury.

Gratuities for dependants other than widows and children

75. In relation to a serviceman who dies during his relevant service in the armed forces, Article 32 shall apply as though he died while serving as a regular fireman.

Servicemen who resume service as regular firemen

76. If a serviceman who resumes service as a regular fireman—

- (a) is permanently disabled; or
- (b) dies (whether while serving as such a fireman or otherwise),

as a result of an injury received during his period of relevant service in the armed forces, the fire authority may, in relation to any award payable to or in respect of him, exercise the like discretions as are conferred on them by Article 73 or by Article 74.

Servicemen who do not resume service in their former brigade

77. If a serviceman within one month of the end of his period of relevant service in the armed forces does not resume service in his former brigade, he shall be treated for the purposes of Articles 16, 28, 39, 44, 48, 55 and 88(3) as having left his former brigade at the end of that period:

Provided that he may apply to the fire authority for the consent mentioned in Article 48(3) at any time within a month of the end of the said period.

Pensionable service, contributions and pay

78.—(1) A serviceman shall be entitled to reckon his period of relevant service in the armed forces as pensionable service in his former brigade for the purposes of this Scheme.

(2) A serviceman shall pay pension contributions (including additional and further contributions under Articles 57 and 58) to the fire authority of his former brigade in respect of his period of relevant service in the armed forces as though he had remained a regular fireman in that brigade:

Provided that pension contributions shall not be payable by a serviceman in respect of any period during which he is in receipt of service pay which when aggregated with any payments under Part V of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951(a) is less than his pensionable pay.

(3) For the purpose of calculating pensionable pay, a serviceman shall be deemed to receive during his period of relevant service in the armed forces the pay which he would have received if he had continued to serve in his former brigade.

Servicemen deemed not to have retired

79. Except where the context otherwise requires, a reference in this Scheme to a regular fireman retiring or ceasing to be such does not include a reference to his so doing for the purpose of undertaking relevant service in the armed forces.

Application to regular firemen with war service

80.—(1) A regular fireman who received any injury during a period of war service at a time when section 1 of the Police and Firemen (War Service) Act 1939(b) applied

(a) 1951 c. 65.

(b) 1939 c. 103.

to him shall be deemed to be a serviceman and his period of war service shall be deemed to be a period of relevant service in the armed forces; and Article 76 shall have effect accordingly.

(2) In this Article any reference to "a period of war service" is a reference to a period of service in the armed forces of the Crown or to a period, beginning before 1st January 1948 and ending before 1st April 1948, of work which the Secretary of State directed should be treated as war work for the purpose of Regulation 60DA of the Defence (General) Regulations 1939, and the reference to the Police and Firemen (War Service) Act 1939 includes a reference to that Act as extended by the said Regulation 60DA.

PART X

MEMBERS OF BRIGADES WHO ARE NOT REGULAR FIREMEN

Awards to and in respect of whole-time firemen

81.—(1) Where, while in attendance at a fire and without his own default, a whole-time member of a brigade who is not a regular fireman suffers or has suffered any injury in the execution of his duties as a member of the brigade, the provisions of this Article shall have effect in his case.

(2) If he retires in consequence of the injury, the fire authority may grant him such pension and such gratuity as they think fit so, however, that the said pension or gratuity, when aggregated with any relevant additional benefit which may be payable to him, shall not exceed the injury pension or, as the case may be, gratuity to which he would have been entitled under Article 15, disregarding paragraph 3 of Part V of Schedule 1, had he been a regular fireman of the rank of fireman and retired on account of a qualifying injury during his first year of service.

(3) If he dies from the effects of the injury, either before or after retiring from the brigade, the fire authority may grant his widow such pension and gratuity, and his child such allowance, as they think fit so, however, that the said pension, gratuity or allowance, when aggregated with any relevant additional benefit which may be payable to the recipient, shall not exceed the special pension or, as the case may be, gratuity to which the widow would have been entitled under Article 23 or the special allowance to which the child would have been entitled under Article 34, had he been a regular fireman of the rank of fireman who died or retired during his first year of service and died from the effects of a qualifying injury.

(4) In this Article the expression "additional benefit" means any payments of whatever nature which are made by the fire authority otherwise than under this Article, by any other local authority or by a Minister of the Crown so, however, that the said expression does not include any benefit payable under the National Insurance Act 1965 or the National Insurance (Industrial Injuries) Act 1965(a); and the expression "relevant additional benefit" means, in relation to a pension or allowance, additional benefit by way of periodical payments and, in relation to a gratuity, additional benefit otherwise than by way of such payments.

(5) This Article shall have effect in the case of a woman member of a brigade subject to Article 85(1).

Part-time firemen: injury award

82.—(1) Where a part-time member of a brigade who retires or has retired is permanently disabled by infirmity of mind or body occasioned by a qualifying injury, he shall be entitled to an injury award as hereinafter provided.

(2) The award under paragraph (1) shall consist of an ill-health pension and an injury pension and gratuity which shall be payable at the like rates and be subject to the like conditions as they would have been if the part-time member concerned had been such a regular fireman as is mentioned in Article 85(2) disabled as aforesaid in the like circumstances; and, accordingly, Articles 14, 15, 18, 19, 20, 21, 41 and 42 shall have effect subject to any necessary modifications.

Widow of part-time fireman: injury award

83.—(1) Where a part-time member of a brigade dies from the effects of a qualifying injury or from the effects of infirmity of mind or body occasioned by such an injury, his widow shall be entitled to a widow's injury award as hereinafter provided.

(2) The award under paragraph (1) shall consist of a widow's special pension and a gratuity which shall be payable at the like rates and be subject to the like conditions as they would have been had the member been such a regular fireman as is mentioned in Article 85(2), and had died from the effects of a qualifying injury received in the like circumstances; and, accordingly, Articles 23, 24, 26, 28, 29 and 30 shall have effect subject to any necessary modifications.

Child of part-time fireman: injury award

84.—(1) Where a part-time member of a brigade dies from the effects of a qualifying injury or from the effects of infirmity of mind or body occasioned by such an injury, any child of his shall be entitled to, or in the case of a woman member, any child of hers may be granted, an injury award as hereinafter provided.

(2) The award under paragraph (1) shall comprise a child's special allowance and, where one of the conditions set out in Article 24(1) is satisfied and the member does not leave a widow entitled to a gratuity under Article 83, a child's special gratuity which shall be payable at the like rates and be payable subject to the like conditions as they would have been had the member been such a regular fireman as is mentioned in Article 85(2) and had died from the effects of a qualifying injury received in the like circumstances; and, accordingly, Articles 34, 35, 37, 38 and 39 shall have effect subject to any necessary modifications.

(3) This Article shall have effect in the case of a woman member of a brigade subject to Article 85(1) and in such case an allowance which falls to be calculated in accordance with paragraph (2) shall be payable at such rate as the fire authority from time to time think fit, not exceeding the rate at which it would have been payable but for this paragraph.

Auxiliary provisions

85.—(1) In the case of a woman member of a brigade who is not a regular fireman this Part of this Scheme shall have effect—

- (a) as if for any reference in Article 81(2) or (3) to the rank of fireman there were substituted a reference to the rank of firewoman;
- (b) as if for any reference in Article 81(3) or 84(1) to a child there were substituted a reference to a child of the member substantially dependent upon her at the time of her death;
- (c) as if in Article 39(b) for the reference to the mother there were substituted a reference to the father.

(2) For the purposes of the injury award payable to or in respect of a part-time member of a brigade, any reference in this Part of this Scheme to a regular fireman is a reference to such a fireman who—

- (a) held the same rank as the part-time member in fact held and had the same service in that rank,
- (b) was entitled to reckon as pensionable service a period equal to the part-time member's service as such, and
- (c) paid pension contributions at the rate of 6p a week less than 6.75% of his pensionable pay.

(3) The provisions of Article 45 and of Parts I, VII, VIII and XIII of this Scheme (in so far as they are applicable) shall apply to a member of a fire brigade who is not a regular fireman and to a pension, allowance or gratuity granted to or in respect of him, but, save as provided in this Part of this Scheme, the provisions of this Scheme shall not apply to such a member or to such a pension, allowance or gratuity.

PART XI

PERSONS WHO ARE NOT MEMBERS OF BRIGADES

Temporary employment in connection with the provision of fire services

86—(1) This Article shall apply in the case of a person who ceases or has ceased to perform duties as a regular fireman in order to enter temporary employment on duties connected with the provision of fire services, being—

- (a) employment as an instructor at the central training institution or any training centre maintained by the Secretary of State;
- (b) employment as an inspector, assistant inspector or other officer appointed under section 24 of the principal Act;
- (c) employment entered upon 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) employment entered upon 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,

(hereafter in this Article referred to as “the relevant employment”).

(2) In the case of a person to whom this Article applies the relevant employment shall be treated for the purposes of this Scheme as employment as a member of a fire brigade and, without prejudice to the following provisions of this Article, this Scheme shall apply in relation thereto as if—

- (a) he were a regular fireman and his duties were his duties as such;
- (b) his pay and rank were the same as they would have been had he not ceased to perform duties as such a fireman or, where section 10 of the Fire Services Act 1959 applies in his case, the same as his pay and rank as a member of a fire brigade;
- (c) any reference to a brigade were a reference to the relevant employment;
- (d) Articles 72, 96 and 97 were omitted; and
- (e) any reference to a fire authority were a reference to the Secretary of State.

(3) Except where the relevant employment is such as is mentioned in paragraph (1)(d), this Scheme shall have effect as aforesaid as if the reference to the sheriff in Article 68(4) were a reference to the sheriff having jurisdiction in the place where the person concerned served as a fireman immediately before entering the relevant employment.

(4) Where the relevant employment is such as is mentioned in paragraph (1)(d), this Scheme shall have effect as aforesaid as if a reference in Article 68 to the Crown Court were a reference to an appeal tribunal appointed by the Secretary of State and consisting of three persons including—

- (a) a retired member of a fire brigade who before he retired held a rank not lower than that of Divisional Officer (Grade I), and
- (b) a barrister or solicitor of seven years' standing or, where the person ceased to perform duties in a Scottish fire brigade in order to enter the relevant employment, an advocate or a solicitor of seven years' standing,

and paragraph (4) were omitted from the said Article.

(5) In the case of an appeal to such a tribunal as is mentioned in paragraph (4)—

- (a) the time and place for the hearing, or the postponed or adjourned hearing, shall be determined by the tribunal, which shall give reasonable notice thereof to the appellant and to the Secretary of State (hereinafter described as “the parties”);
- (b) either party may be represented before the tribunal by counsel or by solicitor or by some other person approved by the tribunal, adduce evidence and cross-examine witnesses;

(c) the tribunal shall apply the rules of evidence applicable in the case of an appeal to the Crown Court under Article 68 or, where the person ceased to perform duties in a Scottish fire brigade in order to enter the relevant employment, in the case of such an appeal to the sheriff, and

(d) subject to the preceding provisions of this paragraph, the tribunal shall determine its own procedure.

(6) Subject to and in accordance with rules of court, an appeal on a point of law from a decision of such a tribunal as is mentioned in paragraph (4) shall lie to the High Court or, where the person ceased to perform duties in a Scottish fire brigade in order to enter the relevant employment, to the Court of Session.

(7) For the purposes of paragraph (1)(d), any arrangements made by the Minister of Overseas Development on or after 1st April 1968 but before 15th November 1970 shall be treated as if they had been made by the Secretary of State.

Permanent employment as an instructor

87.—(1) This Article shall apply in the case of a person who ceases or has ceased to perform duties as a regular fireman in order to enter employment on duties connected with the provision of fire services, being permanent employment as an instructor at the central training institution or any training centre maintained by the Secretary of State.

(2) In the case of such a person as is mentioned in paragraph (1), the employment therein mentioned (hereafter in this paragraph referred to as “the relevant employment”) shall be treated for the purposes of this Scheme as employment as a member of a brigade and this Scheme shall apply in relation to that employment as if—

(a) he were a regular fireman and his duties were his duties as such;

(b) any reference to a brigade were a reference to the relevant employment;

(c) any reference to a fire authority were a reference to the Secretary of State;

(d) the reference to the sheriff in Article 68(4) were a reference to the sheriff having jurisdiction in the place where the central training institution is situate; and

(e) Articles 72, 96 and 97 were omitted.

PART XII

PERSONS WHO WERE SERVING ON 10TH JULY 1956

Persons to whom Part XII applies etc.

88.—(1) Subject to paragraphs (2) and (3) and to Articles 89 and 90, this Part shall apply in the case of a person who—

(a) was, on 10th July 1956, a regular fireman or a serviceman performing relevant service in the armed forces; or

(b) was, on 10th July 1956, in receipt of an ill-health pension and subsequently, but before 1st August 1964, resumed service in his brigade in the circumstances and within the period mentioned in Article 18(3).

(2) This Part shall not apply in the case of such a person as is mentioned in paragraph (1) who exercised the right of election accorded by—

(a) Article 60 of the Firemen’s Pension Scheme 1956(a);

(b) Article 39(2) of the Firemen’s Pension Scheme 1966(b); or

(c) Article 52(2) of the Firemen’s Pension Scheme 1971(c) as amended by the Firemen’s Pension Scheme (Amendment) Order 1973(d),

(a) See S.I. 1956/1022 (1956 I, p. 953). (b) See S.I. 1966/1045 (1966 II, p. 2504).

(c) See S.I. 1971/145 (1971 I, p. 320). (d) S.I. 1973/318 (1973 I, p. 1112).

unless, in the case of a person who exercised the right of election accorded by the said Article 52(2), before 1st October 1973 he elects hereunder that, with effect from 1st April 1972, this Part shall apply in his case.

(3) Where such a person as is mentioned in paragraph (1) ceases or has ceased to serve as a regular fireman in any particular brigade, this Part shall not apply to him in relation to any subsequent period during which he serves as a regular fireman in the same or another brigade, beginning on or after 1st August 1964, unless in the circumstances mentioned in Article 48(1) or (4), he becomes or has become entitled to reckon as pensionable service the period so reckonable on his ceasing to serve.

(4) Any election under this Part shall be made by notice in writing to the fire authority maintaining the fire brigade in which the man is serving or by whom his, or his widow's, pension is payable.

Election by serving member, pensioner or widow

89.—(1) This Article shall apply in the case of a regular fireman in whose case this Part applies on 1st July 1973 and who—

- (a) is on that date serving as such or entitled to a pension having retired on or after 1st April 1972, or
- (b) dies or has died on or after 1st April 1972 but before 1st October 1973, either while serving or having retired as aforesaid.

(2) A regular fireman in whose case this Article applies or his widow may elect that, with effect from 1st April 1972, this Part shall not apply in his case.

(3) Where a regular fireman or his widow so elects, in consequence thereof the arrears of pension contributions in respect of his service on or after 1st April 1972 shall be paid by him or his widow and any award in payment to or in respect of him shall be recalculated as from the date from which it became payable.

(4) Any election or payment under this Article shall be made before 1st October 1973 except that where made by a widow of a man who has died before the said date it may be made later if made within 3 months of his death.

Election on resuming service

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

- (a) who, having ceased to serve as such before 1st July 1973, in a particular brigade, becomes a regular fireman, on a date (in this Article referred to as the relevant date) subsequent to 1st July 1973, in the same or another brigade, and
- (b) to whom this Part applies having regard to the provisions of Article 88(3).

(2) A regular fireman to whom this Article applies may, within 3 months of the relevant date, elect that, with effect from the relevant date, this Part shall not apply in his case.

(3) Where a regular fireman so elects—

- (a) the arrears of pension contributions payable by him in respect of his service on and after the relevant date in consequence of his election shall be paid within three months of the relevant date, and
- (b) paragraphs 2(1)(a) and 3(1) of Part VIII of Schedule 1, paragraph 1(1)(a) and 4(a) of Part IV of Schedule 2 and paragraph 3(1)(a) of Part III of Schedule 3 shall have effect in his case as if the references therein to 1st April 1972 were references to the relevant date and, for the purposes of Articles 22(3) and 60 and paragraph 4(1) of Part I of Schedule 3, his entitlement (if any) to an ill-health pension on 1st July 1973 shall be disregarded.

Modification of Scheme

91. In the case of a person to whom this Part applies, this Scheme shall have effect subject to the modifications set out in Schedule 10.

PART XIII

MISCELLANEOUS PROVISIONS

Auxiliary firemen not subject to Scheme

92.—(1) This Scheme shall not apply in relation to a member of a brigade who is an auxiliary fireman.

(2) In this Article the expression “auxiliary fireman” means a member of a brigade who is enrolled for service therein which is restricted except in a war emergency to such duties as are desirable for training.

Exclusive application of Scheme in relation to regular firemen

93. Subject to the provisions of section 27 of the principal Act, the provisions of this Scheme (and, in so far as they continue to have effect, of the previous Schemes) shall have effect in relation to regular firemen, their wives and dependants to the exclusion of any provision for pension allowance or gratuity in respect of a person's employment as such a fireman (whether in respect of a person's ceasing to be so employed or in respect of his death) contained in or in force under any enactment:

Provided that nothing in this Article shall affect the operation of—

- (a) any such provision in respect of a person's employment or service otherwise than as a member of a fire brigade which is treated for the purposes of this Scheme as employment as a regular fireman; or
- (b) the National Insurance Act 1965(a) or the National Insurance (Industrial Injuries) Act 1965.

Application of Scheme to persons affected by local government reorganisation or a combination scheme

94.—(1) In relation to a member of a fire brigade who is or has been transferred to, or otherwise becomes or has become a member of, another fire brigade by virtue of an instrument mentioned in paragraph (4)—

- (a) this Scheme shall apply as though the brigade of which he becomes a member and the authority maintaining that brigade were, respectively, the same brigade and authority as the brigade first mentioned in this paragraph and the authority maintaining that brigade;
- (b) where he held the rank of assistant divisional officer or any higher rank in the brigade first mentioned in this paragraph but suffers or has suffered reduction in rank attributable to the provisions of such an instrument, Article 96 shall apply as though he had not suffered such reduction in rank, unless he elects otherwise by notice in writing to the fire authority.

(2) In relation to a member of a fire brigade who suffers or has suffered loss of employment as a regular fireman which is attributable to the provisions of an instrument mentioned in paragraph (4)—

- (a) this Scheme shall apply as though he had retired from the brigade after having given due notice of retirement to the fire authority and, if the fire authority so agree, as though the notice of retirement had been given with their permission, and
- (b) where he becomes a regular fireman in another brigade before the end of his resettlement period, Article 47 shall apply as though he had become a member of that other brigade immediately after ceasing to be a member of the brigade first mentioned in this paragraph.

(a) 1965 c. 51.

(3) In relation to a member of a fire brigade who is or has been transferred to, or otherwise becomes or has become a member of, another fire brigade by virtue of the London Government Act 1963(a) or of any instrument mentioned in paragraph (4)—

(a) in whose case this Scheme has effect subject to the modifications set out in Schedule 10;

(b) whose last change of rank during the relevant period for the purposes of Article 55(3) (as modified by paragraph 13 of Schedule 10) was a reduction in rank attributable to the provisions of the said Act of 1963 or of any instrument mentioned in paragraph (4), and

(c) whose average pensionable pay during the said relevant period was less than his pensionable pay immediately before his death or retirement,

Article 55 (as modified as aforesaid) shall apply as though paragraph (3) were omitted therefrom.

(4) The reference in paragraphs (1), (2) and (3) to an instrument mentioned in this paragraph are references to—

(a) an order under Part VI of the Local Government Act 1933(b), Part II of the Local Government Act 1958(c) or section 85 of the London Government Act 1963, or

(b) a scheme under section 5, 6 or 9 of the principal Act or, in Scotland, an order under section 36(8) of that Act;

and the reference in paragraph (2) to a person's resettlement period is a reference to the period of 13 weeks next succeeding the week in which he ceased to be a member of the brigade first mentioned in that paragraph or, in the case of a person who has attained the age of 45 years, the said 13 weeks extended by an additional week for every year of his age after attaining the age of 45 years and before he ceased to be a member of that brigade, subject to a maximum extension of 13 such weeks.

Application of Scheme where modified by section 27 of principal Act

95.—(1) This Article shall apply in the case of a person in relation to whom this Scheme is modified as mentioned in section 27(3) of the principal Act.

(2) Where such a person as aforesaid is entitled to both an ill-health and an injury pension, then, for the purposes of Articles 21, 40, 41 and 42, his entitlement to, and the amount of, the ill-health pension shall be deemed to be the same as they would have been had he not been entitled to an injury pension.

(3) Where in relation to such a person as aforesaid this Scheme is modified by reference to regulations made under either the Metropolitan Fire Brigade Act 1865(d) or the West Ham Corporation Act 1925(e), Article 21(1) shall apply in relation to him as if for the reference to 30 years' pensionable service there were substituted a reference to 28 years' pensionable service.

Age of compulsory retirement

96.—(1) Subject to paragraphs (2) and (3), retirement shall be compulsory for a male whole-time member of a brigade appointed on terms under which he is or may be required to engage in fire-fighting—

(a) in the case of a member of the rank of assistant divisional officer or any higher rank, on attaining the age of 60 years; and

(b) in the case of a member of the rank of station officer or any lower rank, on attaining the age of 55 years,

except that in special cases the fire authority may extend any such member's service for a further period on being satisfied that such extension would be in the interests of efficiency.

(a) 1963 c. 33.
(c) 1958 c. 55.
(e) 1925 c. cxii.

(b) 1933 c. 51.
(d) 1865 c. 90.

(2) Without prejudice to the extension under paragraph (1) of the service of such a member of a brigade as is therein mentioned, in the case of a regular fireman of the rank of station officer or any lower rank, if the fireman so elects by notice in writing to the fire authority, that authority may extend his service by such period, if any, not exceeding 6 months from his attaining the age of 55 years as is requisite to enable him to reckon—

- (a) an additional completed year of pensionable service, in the case of a member who will be entitled to reckon less than 20 years' pensionable service on attaining that age, or
- (b) an additional completed half year of pensionable service, in any other case.

(3) Nothing in paragraph (1) shall apply to a member in whose case any regulations made for the purposes set out in paragraph 7 of the Schedule to the Fire Services (Emergency Provisions) Act 1941(a) had effect immediately before 1st April 1948 unless and until—

- (a) he is entitled without a medical certificate to retire and receive a pension at the rate of 2 thirds of his average pensionable pay; or
- (b) he elects that the provisions of paragraph (1) should apply to him, by notice in writing to the fire authority maintaining the brigade of which he is a member.

(4) Subject to paragraph (5), retirement shall also be compulsory for any male whole-time member of a brigade who has attained the age of 50 years and completed 25 years' pensionable service if he is required to retire by the fire authority on the grounds that his retention in the brigade would not be in the general interests of its efficiency.

(5) Nothing in paragraph (4) shall apply to a member of the brigade in whose case the National Fire Service (Preservation of Pensions) (Police Firemen) Regulations 1941(b), the National Fire Service (Preservation of Pensions) (Birmingham and Leicester) Regulations 1941(c) or the National Fire Service (Preservation of Pensions) (Bolton and Derby) Regulations 1941(d) had effect immediately before 1st April 1948, or to a member who, immediately before 18th August 1941, was a professional fireman within the meaning of the Fire Brigade Pensions Act 1925(e) as amended by the Fire Brigades Act 1938(f) and in whose case the National Fire Service (Preservation of Pensions) (General Pension Funds) Regulations 1941(g) had effect immediately before 1st April 1948.

(6) This Article shall apply to a member of a Scottish fire brigade as if paragraphs (3) and (5) were omitted, but nothing in this Article shall apply to such a member in whose case any regulations made for the purposes set out in paragraph 7 of the Schedule to the Fire Services (Emergency Provisions) Act 1941 had effect immediately before 16th May 1948, unless and until—

- (a) he could have been compelled to retire under the statutory provisions or regulations applicable to him immediately before 18th August 1941, or
- (b) he elects that the provisions of paragraph (1) should apply to him, by notice in writing to the fire authority maintaining the brigade of which he is a member.

Compulsory retirement on grounds of incapacity

97. A regular fireman may be required to retire on the date on which the fire authority determine he ought to retire on the ground that he is permanently disabled:

Provided that a retirement in accordance with this Article shall be void if after the said date, on an appeal against the medical opinion on which the fire authority acted in determining that he ought to retire, the medical referee decides that the appellant is not disabled as aforesaid.

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- (a) 1941 c. 22.
 - (b) S.R. & O. 1941/1271 (1941 I, p. 328).
 - (c) S.R. & O. 1941/1273 (1941 I, p. 337).
 - (d) S.R. & O. 1941/1274 (1941 I, p. 342).
 - (e) 1925 c. 47.
 - (f) 1938 c. 72.
 - (g) S.R. & O. 1941/1270 (1941 I, p. 325).

SCHEDULE 1

Article 12

PART I

FIREMAN'S ORDINARY PENSION

Subject as hereafter in this Schedule provided, an ordinary pension shall be of an amount equal to 30 sixtieths of the fireman's average pensionable pay, with the addition, subject to a maximum of 40 sixtieths, of a sixtieth for each completed half year by which his pensionable service exceeds 25 years.

Article 13

PART II

FIREMAN'S SHORT SERVICE PENSION

Subject as hereafter in this Schedule provided, a short service pension shall be equal to a sixtieth of the fireman's average pensionable pay for each completed year of pensionable service up to 20 years with the addition of a sixtieth for each completed half year by which his pensionable service exceeds 20 years.

Article 14

PART III

FIREMAN'S ILL-HEALTH PENSION

1. Subject as hereafter in this Schedule provided, the amount of the ill-health pension shall be determined in accordance with paragraph 2, 3 or 4 as the case may require.

2. Where the fireman has not completed 5 years' pensionable service, the amount of the pension shall not be less than a sixtieth of his average pensionable pay and, subject as aforesaid, shall be equal to a sixtieth of his average pensionable pay for each completed year of pensionable service.

3. Where the fireman has completed 5 years' but less than 11 years' pensionable service, subject to paragraph 5, the amount of the pension shall be equal to 2 sixtieths of his average pensionable pay for each completed year of pensionable service.

4. Where the fireman has completed at least 11 years' pensionable service, the amount of the pension shall not be less than 20 sixtieths of his average pensionable pay and, subject as aforesaid and to paragraph 5, shall be equal to 7 sixtieths of his average pensionable pay with the addition—

- (a) of a sixtieth for each completed year of pensionable service up to 20 years, and
- (b) of a sixtieth for each completed half year by which his pensionable service exceeds 20 years.

5. In the case of a fireman who, had he continued to serve until he could be required to retire on account of age, would have become entitled to an ordinary or short service pension, a pension calculated in accordance with paragraph 3 or 4 shall not exceed the pension to which he would so have become entitled calculated, however, by reference to the average pensionable pay by reference to which the ill-health pension is calculated.

Articles 13 and 14

PART IV

FIREMAN'S SHORT SERVICE OR ILL-HEALTH GRATUITY

1. Where the fireman is entitled to reckon at least a years' pensionable service, the short service or ill-health gratuity shall be whichever is the greater of the two following amounts:—

Sch. 1 (contd.)

- (a) a twelfth of his average annual pensionable pay multiplied by the number of completed years of pensionable service which he is entitled to reckon; or
 (b) his aggregate contributions.

2. Where the fireman is not entitled to reckon at least a years' pensionable service, the gratuity shall be of an amount equal to his aggregate contributions.

PART V

Article 15

FIREMAN'S INJURY AWARDS

1. A gratuity under Article 15 shall be calculated by reference to the person's degree of disablement and his average annual pensionable pay and shall be the amount specified as appropriate to his degree of disablement in column (2) of the following Table.

2. An injury pension shall be calculated by reference to the person's degree of disablement, his average pensionable pay and the number of his completed years of pensionable service, and, subject to the following paragraphs, shall be of the amount specified as appropriate to his degree of disablement in column (3), (4), (5) or (6) of the following Table, whichever is applicable to his completed years of pensionable service.

TABLE

Degree of disablement (1)	Gratuity expressed as % of average annual pensionable pay (2)	Pension expressed as % of average pensionable pay			
		Less than 5 years' service (3)	5 or more but less than 15 years' service (4)	15 or more but less than 25 years' service (5)	25 or more years' service (6)
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% (very severe disablement)	50%	85%	85%	85%	85%

3.—(1) The amount of an injury pension shall be reduced by three-quarters of the amount of any other pension payable to the person concerned which is calculated by reference to pensionable service reckonable by virtue of the period of service during which he received the qualifying injury.

(2) For the purposes of sub-paragraph (1), such other pension as is there mentioned which is reduced in accordance with the provisions of Article 21 or 41 or of Part VIII of Schedule 1 shall be deemed not to have been so reduced.

Sch. 1 (*contd.*)

4.—(1) The amount of the injury pension in respect of any week shall be reduced on account of any such additional benefit as is mentioned in sub-paragraph (3) which is payable to the person concerned in respect of the same week.

(2) Where the provisions governing scales of additional benefits have changed after the person concerned ceased to be a regular fireman, the amount of the reduction in respect of any week on account of a particular benefit shall not exceed the amount which would have been the amount thereof in respect of that week had those provisions not changed, it being assumed, in the case of such benefit as is mentioned in sub-paragraph (3)(b)(ii), that it would have borne the same relationship to the former maximum amount thereof.

(3) The following benefits are the additional benefits referred to in this paragraph—

(a) any injury benefit payable under the National Insurance (Industrial Injuries) Act 1965 which relates to the relevant injury together with any supplement payable therewith under section 2 of the National Insurance Act 1966(a);

(b) any disablement pension payable under section 12 of the National Insurance (Industrial Injuries) Act 1965 in respect of the relevant injury or so much of any such pension as relates to that injury (hereinafter referred to as the relevant part of the pension), together with—

(i) any increase in such pension payable by way of unemployability supplement under section 13 of the said Act or so much of any such increase as is proportionate to the relevant part of the said pension so, however, that where he is entitled to an unemployability supplement which is increased under section 13A of the said Act, the unemployability supplement shall be deemed not to have been so increased;

(ii) any increase in such pension payable under section 14 of the said Act (special hardship) or so much of any such increase as is proportionate to the relevant part of the said pension,

(iii) any increase in such pension payable under section 17 or 18 of the said Act (dependants) or so much of any such increase as is proportionate to the relevant part of the said pension, and

(iv) so long as he is receiving treatment as an in-patient at a hospital as a result of that injury, any increase in such pension payable under section 16, 17 or 18 of the said Act (hospital treatment and dependants),

so, however, that an increase (or the proportionate part thereof) under each of the sections aforesaid shall be treated as a particular benefit for the purposes of sub-paragraph (2);

(c) until the first day after his retirement which is not or is deemed not to be a day of incapacity for work under section 20 of the National Insurance Act 1965—

(i) any sickness benefit payable under the said Act of 1965, together with any increase therein payable under section 40 or 43 of the said Act of 1965 (dependants) and any supplement thereto payable under section 2 of the National Insurance Act 1966 (short-term earnings related benefit), or

(ii) any invalidity pension payable under the said Act of 1965 together with any increase therein payable under section 40 or 43A of that Act (dependants),

so, however, that the benefits aforesaid shall not constitute separate particular benefits but a single benefit for the purposes of sub-paragraph (2).

(4) Where a person has received a disablement gratuity under the National Insurance (Industrial Injuries) Act 1965 this paragraph shall apply as if he were entitled during the relevant period to a disablement pension under the said Act of 1965 of such amount as would be produced by converting the gratuity into an annuity for that period.

In this sub-paragraph the expression “the relevant period” means the period taken into account, in accordance with section 12 of the said Act of 1965, for the purpose of making the assessment by reference to which the gratuity became payable.

Sch. 1 (*contd.*)

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

6. In the case of a person who—

(a) received the qualifying injury during a period of service which included 1st April 1972 or ended before 1st July 1973, and

(b) is entitled to reckon less than 5 years' pensionable service, an injury pension shall be calculated and payable in accordance with the preceding provisions of this Part or in accordance with the provisions of Article 15 of the Firemen's Pension Scheme 1971(a), as from time to time amended, (which provisions govern special pensions), whichever are the more favourable in his case when he first becomes entitled to the pension.

PART VI

Article 16

FIREMAN'S DEFERRED PENSION

1. The amount of a fireman's deferred pension shall be calculated by reference to—

(a) the pensionable service he is entitled to reckon (here referred to as "actual service");

(b) the pensionable service he would have become entitled to reckon had he continued to serve until he could retire with a maximum ordinary pension (disregarding Article 12(2)) or until he could be required to retire on account of age, whichever is the earlier, (here referred to as "hypothetical service"), and

(c) his average pensionable pay.

2. Subject as hereafter in this Schedule provided, the fireman's pension shall be such that it is the same proportion of the hypothetical pension referred to in paragraph 3 as his actual service is of his hypothetical service, in both cases calculated in completed years, as respects the first 20 years of service, and in completed half years, as respects service in excess of 20 years.

3. The hypothetical pension referred to in paragraph 2 is a pension of an amount equal to a sixtieth of his average pensionable pay for each completed year of his hypothetical service up to 20 years with the addition of a sixtieth for each completed half year by which his hypothetical service exceeds 20 years.

PART VII

Articles 12, 13, 14 and 16

REDUCTION OF FIREMAN'S PENSION AT AGE 65

1.—(1) Subject as hereafter in this paragraph provided, the unsecured portion of an ordinary, ill-health, short service or deferred pension shall be reduced in respect of any period beyond the age of 65 years by an amount calculated at an annual rate obtained by multiplying £1.70 by the number of years specified in sub-paragraph (4).

(2) In the case of a person who immediately before he retired and was granted a pension was paying pension contributions at a rate of 1p a week less than the appropriate percentage of his pensionable pay there shall not be any reduction in the pension under this paragraph.

(3) Subject as hereafter in this paragraph provided, in the case of a person who immediately before he retired and was granted a pension was paying pension contributions at a rate of 6p a week less than the appropriate percentage of his pensionable pay by reason of his having elected so to do as mentioned in Article 56(2) the reduction under sub-paragraph (1) shall be calculated not as therein stated but at an annual rate obtained by multiplying the sum in the second column of the following Table set opposite to his age on the appointed day in the first column of the said Table by the number of years specified in sub-paragraph (4):—

(a) See S.I. 1971/145 (1971 I, p. 320).

Sch. 1 (contd.)

TABLE

Age in years	Sum to be multiplied
	£
Under 23	1·700
23 but under 24	1·650
24 " " 25	1·600
25 " " 26	1·550
26 " " 27	1·525
27 " " 28	1·500
28 " " 29	1·475
29 " " 30	1·450
30 " " 31	1·425
31 " " 32	1·400
32 " " 33	1·375
33 " " 34	1·350
34 " " 35	1·325
35 " " 37	1·300
37 " " 38	1·275
38 " " 40	1·250
40 " " 42	1·225
42 " " 44	1·200
44 and over	1·175

(4) The number of years referred to in sub-paragraph (1) and in sub-paragraph (3), by which the sums therein respectively specified are to be multiplied for the purposes of those sub-paragraphs, is the number of complete years during which the person concerned has served as a regular fireman:

Provided that no account shall be taken of any service which is not reckonable as pensionable service.

(5) In the case of a person who is entitled to reckon a period as pensionable service for the purposes of the pension in question by virtue of service or employment otherwise than as a regular fireman in respect of which he was subject to superannuation arrangements—

(a) if he was subject to the operation of any regulations made under section 69(4) of the National Insurance Act 1946(a) or section 110(1) of the National Insurance Act 1965 or of other provisions modifying the said superannuation arrangements in connection with the passing of the said Act of 1946, otherwise than by virtue of an election made or notice given, then, for the purposes of sub-paragraph (1), sub-paragraph (4) shall apply as though the period he is so entitled to reckon as pensionable service were a period of service as a regular fireman;

(b) if he was subject to the operation of such regulations or other provisions by virtue of an election made or notice given, then sub-paragraph (3) shall apply in his case as if for the reference therein to his age on the appointed day there were substituted a reference to his age on the date on which the said election or notice became effective and, for the purposes of the said sub-paragraph, sub-paragraph (4) shall apply as though the period he is so entitled to reckon as pensionable service were a period of service as a regular fireman:

Provided that no account shall be taken of any period he is so entitled to reckon as pensionable service which is not attributable to service or employment which would have been taken into account for the purposes of the said regulations as provisions.

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

(a) 1946 c. 67.

Sch. 1 (*contd.*)

2.—(1) Where a person in receipt of an ordinary, ill-health, short service or deferred pension has been in service or employment otherwise than as a regular fireman—

- (a) in respect of which he was subject to superannuation arrangements;
- (b) by virtue of which he is entitled to reckon pensionable service for the purposes of the pension; and
- (c) the period of which includes a participating period of relevant employment, then, for the purpose of abating the pension in relation to that participating period of relevant employment, any provision of the said arrangements in operation when he left the said service or employment the effect of which is that pensions payable thereunder are to be reduced in connection with the operation of the National Insurance Act 1959(a) or of any provision of the National Insurance Act 1965 relating to graduated contributions or graduated retirement benefit shall apply, subject to the necessary adaptations and modifications, as though the provision were contained in this paragraph and as if—
 - (i) the pension were payable under the said arrangements, and
 - (ii) any other period of service or employment by virtue of which he is entitled to reckon pensionable service for the purposes of the pension were a period of non-participating employment at the end of which no payment in lieu of contributions falls to be made.

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

(3) Where for the purposes of the superannuation arrangements applicable to such service or employment as is mentioned in sub-paragraph (1) the person concerned was entitled to reckon service by virtue of some previous service or employment, that previous service or employment shall be treated for the purposes of this paragraph as if it were part of the service or employment first mentioned in this sub-paragraph.

3.—(1) Where a person in receipt of an ordinary, ill-health, short service or deferred pension is entitled to reckon as pensionable service for the purposes of the pension a period of employment as a regular fireman which is a participating period of relevant employment, then in relation to that period the unsecured portion of the pension shall be reduced in accordance with the provisions of sub-paragraph (2).

(2) Where the unsecured portion of a pension is reduced in accordance with the provisions of this sub-paragraph, the annual rate of that portion of the pension shall be reduced in respect of any period beyond the age of 65 years by the annual rate of the graduated retirement benefit which would be payable to the pensioner on the assumption that he retired from regular employment on attaining that age, in return for a payment in lieu of contributions in respect of the whole of the period referred to in sub-paragraph (1).

4.—(1) Where a person in receipt of the secured portion of an ill-health pension, (under this or a previous Scheme), the unsecured portion of which has been terminated in the circumstances mentioned in Article 18, is also in receipt of some other pension (being an ordinary, ill-health, short service or deferred pension) and is entitled to reckon for the purposes of that other pension the period of pensionable service reckonable for the purposes of the ill-health pension, then the unsecured portion of that other pension shall be reduced in accordance with the provisions of sub-paragraph (2).

(2) Where the unsecured portion of an ordinary, ill-health, short service or deferred pension is reduced in accordance with the provisions of this sub-paragraph, the annual rate of that portion shall be reduced in respect of any period beyond the age of 65 years by the annual rate of the secured portion of the ill-health pension first mentioned in this paragraph.

Sch. 1 (*contd.*)

Articles 12, 13, 14 and 16

PART VIII

REDUCTION OF PENSION IN SPECIFIED CASES

1. An ordinary, ill-health, short service or deferred pension payable to a fireman shall, in the cases mentioned in this Part, be reduced in accordance therewith; and any reference in this Part to a pension is a reference to such a pension.

2.—(1) This paragraph shall apply in the case of a fireman entitled to reckon pensionable service otherwise than—

(a) by virtue of service as a regular fireman on or after 1st April 1972, or

(b) by virtue of such service before that date in respect of which he has paid pension contributions at a rate related to 6% of his pensionable pay;

except that this paragraph shall not apply in the case of a man to whom Article 59 or 60 applies who last paid pension contributions before 1st April 1972 at a rate related to 5% of his pensionable pay unless he elected or agreed under Article 59(2)(b) or (4)(a) or Article 60(2)(b) that his pension be reduced.

(2) The pension of a fireman in whose case this paragraph applies shall, subject to the provisions of this Part, be reduced by that percentage specified in the second column of the following Table opposite the number of completed years of pensionable service he is entitled to reckon otherwise than as mentioned in sub-paragraph (1)(a) or (b) being, where he agreed to the reduction under Article 59(4)(a), pensionable service which he became so entitled to reckon under Article 48, 49, 51 or 52 on or after 1st July 1973.

(3) If the fireman elected to pay additional contributions as mentioned in Article 57 and paid such contributions until he became entitled to reckon 25 years' pensionable service or retired with a pension, in calculating the amount of the reduction under this paragraph no account shall be taken of any service which was taken into account for the purpose of calculating the rate at which the additional contributions were payable.

3.—(1) This paragraph shall apply in the case of a fireman entitled to reckon pensionable service otherwise than by virtue of service as a member of a fire brigade on or after 1st April 1972; except that this paragraph shall not apply in the case of a man to whom Article 59 or 60 applies unless he elected or agreed under Article 59(3)(b) or (4)(b) or 60(3)(b) that his pension be reduced.

(2) The pension of a fireman in whose case this paragraph applies shall, subject to the provisions of this Part, be reduced by the percentage specified in the third column of the following Table opposite the number of completed years of pensionable service he is entitled to reckon otherwise than as mentioned in sub-paragraph (1), being, where he agreed to the reduction under Article 59(4)(b), pensionable service which he became so entitled to reckon under Article 48, 49, 51 or 52 on or after 1st July 1973.

4. In calculating the amount of a reduction in a fireman's pension under paragraph 2 or 3 no account shall be taken of any such service as is mentioned in the proviso to Article 78(2) which he is entitled to reckon as pensionable service by virtue of Article 78(1).

5. In calculating the amount of a reduction in a fireman's pension under paragraph 2 or 3 no account shall be taken of any reduction in the amount of the pension in accordance with the provisions of Article 21 or 41 or of Part VII of this Schedule, and, where the pension falls to be reduced under both those paragraphs, for the purpose of calculating each reduction, no account shall be taken of the other reduction.

6.—(1) In the case of a fireman who elected under Article 58 to pay additional or further pension contributions and was still paying such contributions immediately before retiring with an ordinary pension, the annual amount of that pension shall be

Sch. 1 (contd.)

reduced for the period mentioned in sub-paragraph (2) by the annual amount of those contributions immediately before his retirement, calculated by reference to his pensionable pay at that time so, however, that no account of the said reduction shall be taken for the purposes of calculating any other reduction in the pension under this Scheme.

(2) The period referred to in sub-paragraph (1) shall be one corresponding to that for which the additional or further contributions would have remained payable had the man not retired.

TABLE

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

PART IX

Articles 13 and 14

REDUCTION OF FIREMAN'S GRATUITY

1. Where a payment in lieu of contributions falls to be made by a fire authority in respect of a regular fireman and—

(a) a short service gratuity is payable by that authority on his retirement, or

(b) an ill-health gratuity is so payable and the fire authority determine that the provisions of this Part of this Schedule shall apply,

the gratuity in question shall be reduced by an amount equal to the amount which could be retained out of the gratuity by the fire authority under section 60(4) of the National Insurance Act 1965 if the gratuity were a refund of payments to which that subsection applies.

Sch. 1 (*contd.*)

2. Where a payment in lieu of contributions may fall to be made by a fire authority in respect of a regular fireman and such a gratuity as is mentioned in paragraph 1 is payable as mentioned therein, the fire authority may reduce the amount of the gratuity in question by the amount by which it would be reduced under the said paragraph 1 if the payment in lieu of contributions in fact fell to be made, so however that, if the said payment does not fall to be made within the period of 78 weeks from the date when the person concerned ceases to be a regular fireman or within such shorter period as the fire authority may determine, then any reduction in the amount of the gratuity under this paragraph shall cease to have effect and the difference between the full and the reduced amounts thereof shall become payable.

SCHEDULE 2

WIDOWS AND ADULT DEPENDANTS

PART I

Article 22

WIDOWS ORDINARY PENSION

1. Subject to paragraph 2, the amount of a widow's ordinary pension shall equal a half of that of her husband's pension or notional pension referred to in paragraph 3.

2.—(1) Where in respect of any period a widow so elects, then, subject to sub-paragraph (2), the annual rate of her ordinary 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, £163·81 a year;
- (b) held a rank higher than that of sub-officer but not higher than that of divisional officer (Grade I) £213·37 a year;
- (c) held a rank higher than that of divisional officer (Grade I), £256·66 a year.

(2) Where the husband was entitled to reckon at least 10 years' pensionable service, the preceding sub-paragraph shall have effect as if for the rates of £163·81, £213·37 and £256·66 there were substituted, respectively, the rates of £175·28, £224·84 and £268·14 a year.

3.—(1) The husband's pension or notional pension mentioned in paragraph 1 shall be—

- (a) where he died while entitled to an ordinary, short service or ill-health pension, that pension;
- (b) in any other case, the ill-health pension to which he would have been entitled had he retired with such a pension immediately before he died, calculated, in either case, in accordance with the following sub-paragraph.

(2) For the purposes of paragraph 1, in calculating the husband's pension or notional pension the following provisions shall be disregarded, that is to say the provisions for the reduction of a pension contained in Articles 21(6) and 41(6) and in Parts VII and VIII of Schedule 1.

Article 22

PART II

TRANSITIONAL MODIFICATIONS OF PART I

1.—(1) Where this Part of this Schedule applies, Part I of this Schedule (hereinafter referred to as Part I) shall have effect as if the relevant provisions of this Part were substituted for paragraph 1 thereof and paragraph 3 of Part I shall have effect accordingly.

Sch. 2 (*contd.*)

(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 51 or 52, where the conditions specified in paragraph (1) of the Article in question are satisfied on or after 1st July 1973.

2.—(1) This paragraph shall apply where—

- (a) the husband, before 1st April 1972, last paid pension contributions at a rate related to 5% of his pensionable pay, and
- (b) neither he nor the widow exercised a right of election accorded by Article 58(2), 59(2), 60(2) or 61(2).

(2) Subject to paragraph 2(1) of Part I but disregarding paragraph 2(2) thereof, where this paragraph applies the amount of the widow’s ordinary pension shall equal a half of the amount specified in paragraph 4 of this Part:

Provided that the amount payable in respect of any week shall not be less than it would have been had the weekly amount of the pension been calculated as provided in Scheme II of Part II of Schedule 2 to the Fireman’s Pension Scheme 1971.

3.—(1) This paragraph shall apply where—

- (a) paragraph 2 does not apply since either the husband did not pay pension contributions as mentioned in sub-paragraph (1)(a) thereof, or, if he did, he or the widow exercised a right of election mentioned in sub-paragraph (1)(b) thereof, and
- (b) neither the husband nor the widow exercised a right of election accorded by Article 58(3), 59(3), 60(3) or 61(3).

(2) Subject to paragraph 2 of Part I, the amount of the widow’s ordinary pension shall, subject to sub-paragraph (3), equal a third of the amount of her husband’s pension or notional pension with the addition of a sixth of the amount specified in paragraph 4 of this Part.

(3) Except where the husband dies while in receipt of an ordinary or short service pension, his widow’s ordinary pension shall be of an amount not less than a half of the amount specified in paragraph 5.

4. The amount specified in this paragraph shall be the difference between the two following amounts, subject, however to paragraph 6—

- (a) an amount equal to a sixtieth of the husband’s average pensionable pay for each completed year of pensionable service up to 20 years with the addition of a sixtieth for each completed half year by which his pensionable service exceeds 20 years;
- (b) an amount calculated as aforesaid but by reference only to the husband’s pre-1972 pensionable service.

5.—(1) In this paragraph the following expressions have the meanings hereby respectively assigned to them that is to say:—

“relevant number of years” means the number of years (if any) by which the fireman’s completed years of pre-1972 pensionable service fall short of 20 years;

“relevant pensionable service” means a fireman’s pensionable service reduced by his completed years of pre-1972 pensionable service;

“weighted relevant pensionable service” means a fireman’s completed years of relevant pensionable service up to the relevant number of years with the addition of a year for each completed half year by which his relevant pensionable service exceeds the relevant number of years.

Sch. 2 (*contd.*)

(2) The amount specified in this paragraph shall be the amount of the husband's ill-health or notional pension calculated in accordance with Part III of Schedule 1 but, subject to paragraph 6—

- (a) where his weighted relevant pensionable service does not exceed 20 years, by reference thereto;
- (b) where that service exceeds 20 years, by reference to his relevant pensionable service with the addition of a half year for each completed year of pre-1972 service,

instead of by reference to his pensionable service.

6. Where the husband's completed years of pensionable service exceed 30 years, then there shall be reduced by that excess—

- (a) his completed years of pensionable service taken into account for the purposes of paragraph 4(a);
- (b) his completed years of pre-1972 pensionable service taken into account for the purposes of paragraph 4(b);
- (c) his completed years of pre-1972 pensionable service taken into account for the purposes of paragraph 5(2)(b) (otherwise than for the purpose of determining his relevant pensionable service).

PART III

Article 23

WIDOW'S SPECIAL PENSION

1. Subject to paragraphs 2 and 3, the weekly amount of a widow's special pension calculated in accordance with this Part of this Schedule shall be equal to 45% of her husband's average pensionable pay.

2.—(1) Where, in respect of any week, a pension under section 19 of the National Insurance (Industrial Injuries) Act 1965 is payable to the widow in consequence of her husband's death and the amount of that pension exceeds that of a widow's pension under the National Insurance Act 1965 as specified in Part I of Schedule 3 thereto at the time of the husband's death, then the amount of her special pension in respect of that week shall be reduced by that excess.

(2) Where the provisions governing the amounts of pensions under section 19 of the National Insurance (Industrial Injuries) Act 1965 have changed after the death of the husband, the reduction under sub-paragraph (1) in respect of any week shall not exceed the amount which would have been the amount thereof in respect of that week had those provisions not changed.

PART IV

Article 25

WIDOW'S ACCRUED PENSION

1.—(1) In this Part the husband's half-rate service means the aggregate of—

- (a) his pensionable service reckonable by virtue of service as a regular fireman on or after 1st April 1972;
- (b) his pensionable service (if any) reckonable by virtue of such service as is mentioned in the proviso to Article 78(2) and the provisions of Article 78(1);
- (c) if, immediately before he retired, he was paying further contributions under Article 58 in pursuance of an election thereunder, the proportion specified in sub-paragraph (3) of the pensionable service taken into account under Part I of Schedule 7 in calculating those contributions;

Sch. 2 (*contd.*)

- (d) if he had elected under Article 59 to make a further payment by way of a lump sum, the pensionable service taken into account under Part II of Schedule 7 in calculating that lump sum;
- (e) if his deferred pension fell to be reduced in accordance with paragraph 3 of Part VIII of Schedule 1 the proportion specified in sub-paragraph (4) of the pensionable service taken into account in calculating the reduction.
- (2) In this Part the husband's mixed-rate service means the aggregate of—
- (a) his pensionable service reckonable by virtue of service as a regular fireman in respect of which he has paid pension contributions at a rate related to 6% of his pensionable pay;
- (b) his pensionable service reckonable as mentioned in sub-paragraph (1)(a) and (b);
- (c) if, immediately before he retired, he was paying additional contributions under Article 57 or 58 in pursuance of such an election as is mentioned in the Article in question, the proportion mentioned in sub-paragraph (3) of the pensionable service taken into account, under Part I of Schedule 7 in calculating those contributions;
- (d) if he had elected under Article 59 to make an additional payment by way of a lump sum, the pensionable service taken into account under Part II of Schedule 7 in calculating that lump sum;
- (e) if his deferred pension fell to be reduced in accordance with paragraph 2 of Part VIII of Schedule 1, the proportion mentioned in sub-paragraph (4) of the pensionable service taken into account in calculating the reduction.
- (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 at the time when he made the election referred to in the sub-paragraph in question 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.
- (4) The proportion referred to in sub-paragraph (1)(e) or sub-paragraph (2)(e) shall be the proportion which the period of the man's actual service—
- (a) on or after 1st April 1972, in the case of sub-paragraph (1)(e), or
- (b) on or after 26th August 1966, in the case of sub-paragraph (2)(e),
- as a regular fireman, bears to the period of such service as he would have had if (irrespective of the date of his death) he had not retired until entitled to an ordinary pension or until he could be required to retire on account of age, whichever is the earlier each period being reckoned in completed years and completed months.
- 2.—(1) Subject to paragraphs 3 and 4, the amount of a widow's accrued pension shall equal the aggregate of the following amounts, namely:—
- (a) in respect of the husband's half-rate service, a sixth of the corresponding proportion of his deferred pension;
- (b) in respect of his mixed-rate service, a third of the corresponding proportion of his deferred pension.
- (2) For the purposes of sub-paragraphs (1)(a) and (b), the corresponding proportion means the proportion which the husband's half-rate or, as the case may be, mixed-rate service bears to the pensionable service reckonable by him, each period being reckoned in completed years up to 20 years and in completed half years in so far as it exceeds 20 years.
3. 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—

Sch. 2 (*contd.*)

- (a) held a rank not higher than that of sub-officer, £163·81 a year;
- (b) held a rank higher than that of sub-officer but not higher than that of divisional officer (Grade I), £213·37 a year;
- (c) held a rank higher than that of divisional officer (Grade I), £256·66 a year.

Articles 22, 23 and 25

PART V

INCREASE IN WIDOW'S PENSION DURING FIRST 13 WEEKS

1. This Part shall apply unless, immediately before his death, the husband was neither—

- (a) serving as a regular fireman, nor
- (b) in receipt of a pension.

2.—(1) Where this Part applies, a widow's ordinary, special or accrued pension 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 not less than—

- (a) his pensionable pay for a week immediately before he died, where he was then serving as a regular fireman, or
- (b) the weekly amount of his pension immediately before he died in any other case.

(2) 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.

Article 26

PART VI

WIDOW'S GRATUITY BY WAY OF COMMUTED PENSION

A widow's gratuity by way of commuted pension shall be such sum as may be agreed between the fire authority and the widow, not exceeding the capitalised value of the pension or, as the case may be, of that part of the pension which is commuted, calculated in accordance with tables prepared from time to time by the Government Actuary.

PART VII

Article 31

DEPENDENT RELATIVE'S SPECIAL PENSION

1.—(1) Where a regular fireman in respect of whose death a dependent relative's special pension is granted (in this Part referred to as the "deceased") was married and his widow is alive, the pension shall, subject to paragraph 3, be determined in accordance with this paragraph.

(2) A pension determined in accordance herewith shall be of an amount equal to 20% of the deceased's average pensionable pay.

2.—(1) Where the deceased was not married or in respect of any period after the death of the widow, the amount of the dependent relative's special pension shall, subject to paragraph 3, be determined in accordance with this paragraph.

(2) A pension determined in accordance herewith shall be of an amount equal to 45% of the deceased's average pensionable pay.

Sch. 2 (*contd.*)

- 3.—(1) Where in respect of any week the aggregate amount of—
 (a) any widow's special pension, and
 (b) any child's special allowance,
 payable in respect of the deceased's death equals or exceeds the amount of his average pensionable pay, no dependent relative's special pension shall be payable in respect of that week.
- (2) Where in respect of any week the aggregate amount of—
 (a) any widow's special pension,
 (b) any child's special allowance, and
 (c) any dependent relative's special pension,
 payable in respect of the deceased's death would exceed the amount of his average pensionable pay, the dependent relative's pension shall be reduced by such factor as will ensure that the said aggregate does not exceed the said amount.

SCHEDULE 3

CHILDREN

PART I

Article 33

CHILD'S ORDINARY ALLOWANCE

1.—(1) Where the mother of the child is alive, the child's ordinary allowance in respect of the death of a regular fireman shall, subject to paragraph 5, be determined in accordance with this paragraph.

(2) Subject to sub-paragraphs (3) and (4), an allowance determined in accordance herewith shall be of an amount equal to 12.5% of the amount specified in paragraph 3 or 4, as the case may be.

(3) Subject to sub-paragraph (4), where 4 or more children's ordinary allowances are payable in respect of the death of the same person, an allowance determined in accordance herewith shall be of an amount equal to 37.5% of the amount specified in paragraph 3 or 4, as the case may be, divided by the total number of allowances so payable.

(4) Where in respect of any period a person to whom there is paid an allowance determined in accordance herewith so elects, then, in respect of that period, the allowance shall be payable as hereinafter provided, that is to say—

- (a) where the father's last rank was not higher than that of sub-officer, at the rate of £45.91 a year;
- (b) where the father's last rank was higher than that of sub-officer but not higher than that of divisional officer (Grade I), at the rate of £54.78 a year; or
- (c) where the father's last rank was higher than that of divisional officer (Grade I), at the rate of £67.30 a year.

2.—(1) Where the father was the child's only surviving parent or in respect of the period after the death of the mother, the child's ordinary allowance shall, subject to paragraph 5, be determined in accordance with this paragraph.

(2) Subject to sub-paragraphs (3) and (4), an allowance determined in accordance herewith shall be of an amount equal to 25% of the amount specified in paragraph 3 or 4, as the case may be.

(3) Subject to sub-paragraph (4), where 3 or more children's ordinary allowances are payable in respect of the death of the same person, an allowance determined in accordance herewith shall be of an amount equal to 50% of the amount specified in paragraph 3 or 4, as the case may be, divided by the total number of allowances so payable.

Sch. 3 (*contd.*)

(4) Where in respect of any period a person to whom there is paid an allowance determined in accordance herewith so elects, then, in respect of that period, the allowance shall be payable as hereinafter provided, that is to say—

- (a) where the father's last rank was not higher than that of sub-officer, at the rate of £67·82 a year or such higher rate not exceeding £89·73 a year as the fire authority may from time to time determine;
- (b) where the father's last rank was higher than that of sub-officer but not higher than that of divisional officer (Grade I), at the rate of £80·86 a year or such higher rate not exceeding £107·47 a year as the fire authority may from time to time determine; or
- (c) where the father's last rank was higher than that of divisional officer (Grade I), at the rate of £100·69 a year or such higher rate not exceeding £134·07 a year as the fire authority may from time to time determine.

3.—(1) Except where the father is such a person as is mentioned in paragraph 4(1), the specified amount shall be that of his pension or notional pension, that is to say—

- (a) where he dies while entitled to an ordinary, short service or ill-health pension, that pension;
- (b) in any other case, the ill-health pension to which he would have been entitled had he retired with such a pension immediately before he died, calculated, in either case, in accordance with the following sub-paragraph.

(2) For the purposes of paragraph 1 or 2, in calculating the father's pension or notional pension the following provisions shall be disregarded, that is to say the provisions for the reduction of a pension contained in Articles 21(6) and 41(6) and in Parts VII and VIII of Schedule 1.

4.—(1) This paragraph shall apply where the father was serving as a regular fireman or entitled to a pension other than a deferred pension either—

- (a) on 1st July 1973, or
- (b) at the date of his death where that date is before 1st October 1973,

and he or, as the case may be, his widow has not exercised the rights of election accorded by Articles 58, 59, 60 and 61 for the purpose of avoiding the application to the calculation of his widow's ordinary pension (if any)—

- (i) of paragraphs 2 and 3 of Part II of Schedule 2, where, before 1st April 1972, he last paid pension contributions at a rate related to 5% of his pensionable pay, or
- (ii) of paragraph 3 of the said Part II, in any other case.

(2) Where this paragraph applies, the specified amount shall be the difference between the two following amounts, subject, however, to sub-paragraph (3):—

- (a) an amount equal to a sixtieth of the father's average pensionable pay for each completed year of pensionable service up to 20 years with the addition of a sixtieth for each completed half year by which his pensionable service exceeds 20 years;
- (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 51 or 52, where the conditions specified in paragraph (1) of the Article in question are satisfied on or after 1st July 1973.

(3) Where the father's completed years of pensionable service exceed 30 years, then there shall be reduced by that excess—

Sch. 3 (*contd.*)

- (a) his completed years of pensionable service taken into account for the purposes of sub-paragraph (2)(a);
- (b) his completed years of pre-1972 pensionable service taken into account for the purposes of sub-paragraph (2)(b).

5.—(1) Where in respect of any week the aggregate rate at which—

- (a) any widow's ordinary pension, and
- (b) any children's ordinary allowances determined in accordance with sub-paragraph (2) or (3) of paragraph 1,

are payable in respect of a fireman who died while entitled to a pension other than a deferred pension exceeds the rate at which that pension was payable immediately before his death, the children's allowances shall be reduced by such factor as will ensure that the said aggregate rate does not exceed the last-mentioned rate.

(2) For the purposes of this paragraph there shall be ignored any reduction in the deceased fireman's pension other than a reduction under Article 21(6) or 41(6) or (in the case of an injury pension) under paragraph 3(1) of Part V of Schedule 1.

PART II

Article 34

CHILD'S SPECIAL ALLOWANCE

1.—(1) Where the mother of the child is alive, the child's special allowance in respect of the death of a regular fireman shall be determined in accordance with this paragraph.

(2) Subject to sub-paragraph (3), an allowance determined in accordance herewith shall be of an amount equal to 10% of the father's average pensionable pay.

(3) Where 5 or more children's special allowances are payable in respect of the death of the same person, an allowance determined in accordance herewith shall be of an amount equal to 40% of the father's average pensionable pay divided by the total number of allowances so payable.

2.—(1) Where the father was the child's only surviving parent or in respect of the period after the death of the mother, the child's special allowance shall be determined in accordance with this paragraph.

(2) Subject to sub-paragraph (3), an allowance determined in accordance herewith shall be of an amount equal to 20% of the father's average pensionable pay.

(3) Where 5 or more children's special allowances are payable in respect of the death of the same person, an allowance determined in accordance herewith shall be of an amount equal to 80% of the father's average pensionable pay divided by the total number of allowances so payable.

PART III

Article 36

CHILD'S ACCRUED ALLOWANCE

1. Subject as hereinafter provided, a child's accrued allowance shall be determined in like manner as an ordinary allowance would be determined under Part I of this Schedule if the child were entitled to such an allowance.

2. Except where the child's father is such a person as is referred to in paragraph 3, the specified amount, for the purposes of paragraph 1 or 2 of the said Part I as applied hereby, shall be the amount of the father's deferred pension and not the amount specified in the said Part I.

Sch. 3 (*contd.*)

3.—(1) This paragraph shall apply where the father is entitled to reckon pensionable service otherwise than by virtue of—

- (a) service as a regular fireman on or after 1st April 1972;
- (b) by virtue of such service as is mentioned in the proviso to Article 78(2) and the provisions of Article 78(1);
- (c) Article 51 or 52, where the conditions specified in paragraph (1) of the Article in question are satisfied on or after 1st July 1973.

(2) Where this paragraph applies, the specified amount, for the purposes of paragraph 1 or 2 of Part I of this Schedule as applied hereby, shall be the following proportion of the amount of the father's deferred pension, that is to say, the proportion which his half-rate service (within the meaning of Part IV of Schedule 2) bears to the pensionable service reckonable by him, each period being reckoned in completed years up to 20 years and in completed half years in so far as it exceeds 20 years, and not the amount specified in the said Part I.

4. For the purposes of paragraph 1 or 2 of Part I of this Schedule as applied hereby, in calculating the father's deferred pension the following provisions shall be disregarded, that is to say:—

- (a) the restrictions on payment contained in Article 16(2), and
- (b) the provisions for the reduction of a pension contained in Articles 21(6) and 41(6) and in Parts VII and VIII of Schedule 1.

5. For the purposes of Part I of this Schedule as applied hereby, paragraph 5 thereof shall have effect as if for sub-paragraph (1) thereof there were substituted the following provision, namely, that where in respect of any week the aggregate rate at which—

- (a) any widow's accrued pension, and
- (b) any children's accrued allowances determined in accordance with sub-paragraph (2) or (3) of paragraph 1 of the said Part I,

exceeds the rate at which the husband and father's deferred pension was payable immediately before his death, or would have been so payable had he attained the age of 60 years, the children's allowances shall be reduced by such factor as will ensure that the said aggregate rate does not exceed the last-mentioned rate.

Articles 33, 34 and 36

PART IV

INCREASE IN CHILD'S ALLOWANCE IN CERTAIN CASES DURING FIRST 13 WEEKS

1. This Part shall apply where the regular fireman in respect of whose death the allowance is payable did not leave a widow entitled to a pension which was payable for a continuous period of 13 weeks unless, immediately before his death, he was neither—

- (i) serving as a regular fireman, nor
- (ii) in receipt of a pension.

2. Where this Part applies, a child's ordinary, special or accrued allowance 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, it is not less than the amount specified in paragraph 2(1)(a) or (b) of Part V of Schedule 2 except that, where two or more such allowances are payable in respect of the death of the same fireman, each allowance shall be so increased that it is of that amount divided by the number of such allowances:

Provided that where a widow's pension is payable in respect of any such week, a child's allowance in respect of the death of the same person shall not be so increased in respect of that week.

Sch. 3 (*contd.*)

PART V

Article 37

CHILD'S GRATUITY BY WAY OF COMMUTED ALLOWANCE

A child's gratuity by way of commuted allowance shall be such sum as may be agreed between the fire authority and the child's guardian, not exceeding the capitalised value of the allowance or, as the case may be, of that part of the allowance which is commuted, calculated in accordance with tables prepared from time to time by the Government Actuary.

SCHEDULE 4

Articles 48, 49, 51 and 52

PAYMENTS BY FIREMEN IN RESPECT OF PREVIOUS SERVICE

1. Where a fireman undertakes to make payments in accordance with this Schedule, he shall pay by regular instalments of such an amount that the payment will be completed within a period of 5 years and before he can be required to retire under Article 96:

Provided that—

- (a) he may on giving the said undertaking or at any later date discharge his liability thereunder, in whole or in part by paying the whole or part of the sum, or balance of the sum then outstanding, as the case may be;
- (b) if he retires and is not entitled to an award other than one of an amount equal to his aggregate contributions, or dies, all further liability under the said undertaking shall cease;
- (c) if he retires before his liability under the said undertaking is discharged and his liability does not cease in accordance with the provisions of proviso (b) to this paragraph, the fire authority shall be empowered to deduct the balance of the sum then outstanding from payments of any award payable to him.

2. Where a fireman undertakes to make payments in accordance with this Schedule, he shall make payment to the authority by whom he is employed when he gives the undertaking and, without prejudice to any other method of payment, this liability may be discharged by way of a deduction by the said authority from his pay.

SCHEDULE 5

Article 48

SUMS TO BE PAID BY FIREMEN IN RESPECT OF PREVIOUS SERVICE

1.—(1) Subject to the provisions of this Schedule, the sum to be paid by a regular fireman under an undertaking given under Article 48(5) shall be, in respect of each year of pensionable service reckonable under Article 48(5) and in respect of £100 of annual pensionable pay, the sum shown in the second column of the following Table in relation to an age which corresponds with that of the fireman, and the total sum to be paid as aforesaid shall be calculated proportionately by reference to the pensionable service so reckonable and to his annual pensionable pay:—

Sch. 5 (contd.)

TABLE

Age in years	Amount for £100 of annual pensionable pay
	£
Under 38	9-50
38 but under 39	9-60
39 " " 40	9-70
40 " " 41	9-80
41 " " 42	9-90
42 " " 43	10-05
43 " " 44	10-20
44 " " 45	10-40
45 " " 46	10-55
46 " " 47	10-70
47 " " 48	10-90
48 " " 49	11-05
49 " " 50	11-25
50 " " 51	11-40
51 " " 52	11-60
52 " " 53	11-80
53 " " 54	12-00
54 " " 55	12-30
55 and over	12-60

(2) In this paragraph a reference to the age or annual pensionable pay of a fireman is a reference to his age or, as the case may be, the annual rate of his pensionable pay on joining or, as the case may be, rejoining the brigade, any retrospective increase in his pensionable pay granted after that time being ignored.

2. The sum to be paid by the fireman, calculated in accordance with the preceding provisions of this Schedule, shall be reduced by a half of the amount, if any, by which the sum which would have been payable in his case by way of transfer value under Article 71 would have been reduced under paragraphs 3, 4 and 5 of Schedule 9 had the pensionable service reckonable under Article 48(5) been reckonable under Article 48(1).

SCHEDULE 6

Article 52

PART I

CIVIL SERVICE, METROPOLITAN CIVIL STAFFS, EDUCATION, HEALTH, POLICE AND BELFAST FIRE SERVICE

1. This Part shall apply in relation to service or employment—

- (a) as a civil servant,
- (b) in the metropolitan civil staffs within the meaning of section 15 of the Superannuation (Miscellaneous Provisions) Act 1967(a),
- (c) such as is mentioned in section 2(2)(e) and (ee) of the Superannuation (Miscellaneous Provisions) Act 1948(b) (education service),
- (d) in respect of which awards may be made under regulations for the time being in force under section 10 of the Superannuation Act 1972(c), section 67 of the National Health Service Act 1946(d) or section 66 of the National Health Service (Scotland) Act 1947(e),

(a) 1967 c. 28.

(d) 1946 c. 81.

(b) 1948 c. 33.

(e) 1947 c. 27.

(c) 1972 c. 11.

Sch. 6 (*contd.*)

(e) as a regular policeman within the meaning of the regulations for the time being in force under section 1 of the Police Pensions Act 1948(a), (hereinafter referred to as the Police Pensions Regulations), or

(f) in the Belfast Fire Force.

2. In relation to the said service or employment Article 52(1)(d) shall have effect as if the words "or (subject to paragraph 2 of Part I of Schedule 6) within 6 months of the date specified in Schedule 6 in relation to his former service, whichever is the later," were omitted.

3. In relation to the said service or employment the transfer value for the purposes of Article 52 shall be one payable under—

(a) rules made under sections 2 and 15 of the Superannuation (Miscellaneous Provisions) Act 1948;

(b) such regulations as are mentioned in paragraph 1(d);

(c) the Police Pensions Regulations;

(d) the Scheme for the time being in force under section 13 of the Fire Services (Amendment) Act (Northern Ireland) 1950(b); or

(e) a scheme made under section 1, or regulations made under section 9 or 10 of the Superannuation Act 1972.

4. The specified authority for the purposes of Article 52 shall be—

(a) in relation to service or employment as a civil servant, the Minister for the Civil Service;

(b) in relation to service or employment as a regular policeman, the police authority within the meaning of the Police Pensions Regulations;

(c) in relation to service in the Belfast Fire Force, the Corporation of the city of Belfast;

(d) in relation to any other service or employment, the Secretary of State.

PART II

OTHER SERVICE OR EMPLOYMENT

1. This Part shall apply in relation to such service or employment as is mentioned in paragraphs 3 and 4 of Schedule 1 to the Superannuation (Fire and Specified Services) Interchange Rules 1972(c).

2.—(1) Subject to sub-paragraph (2), in relation to any such service or employment the specified date for the purposes of Article 52 and of paragraph 3(2)(b) shall be 1st May 1972.

(2) Where in relation to a particular service or employment no provisions are in operation on 1st May 1972 for the payment of a transfer value to the fire authority, as mentioned in Article 52(1)(c) then in relation thereto the specified date for the purposes aforesaid shall be the date on which such provisions first thereafter come into operation.

3.—(1) In relation to any such service or employment the transfer value for the purposes of Article 52 shall, subject to sub-paragraphs (2) and (3), be one of the like amount, and calculated in the like manner, as the transfer value which would have been receivable under Part III of the Superannuation (Local Government and Approved Employment) Interchange Rules 1969(d) (as originally made) had the person concerned

(a) 1948 c. 24.

(c) S.I. 1972/521 (1972 I, p. 1786).

(b) 1950 c. 4 (N.I.).

(d) S.I. 1969/997 (1969 II, p. 2906).

Sch. 6 (*contd.*)

entered local government employment, within the meaning of those Rules, on the date on which he became a regular fireman and in circumstances in which the said Part III applied.

(2) For the purposes of sub-paragraph (1)—

(a) to the extent that the Table in Schedule 1 to the said Rules of 1969 does not contain entries relating to a particular service or employment, it shall be deemed to do so, and

(b) paragraph 6 of Schedule 1 to the said Rules of 1969 shall have effect as if any references therein to 18th August 1969 and 18th August 1968 were, respectively, references to the specified date and to a date 12 months before the specified date and sub-paragraphs (1)(a) and (b) and (3) were omitted.

(3) In relation to service in which a person is subject to the Isle of Man Police Pension Regulations, that is to say, the Regulations for the time being in operation under section 16 of the Police (Isle of Man) Act 1962 (an Act of Tynwald) the transfer value shall be one payable under those Regulations.

4. In relation to any such service or employment, the specified authority for the purposes of Article 52 shall be the persons having the general management of the superannuation arrangements to which the person concerned was subject in the service or employment in question.

SCHEDULE 7

ADDITIONAL AND FURTHER PAYMENTS

Articles 57 and 58

PART I

CONTRIBUTIONS

1. Where additional pension contributions are payable by a man under Article 57 in pursuance of such an election as is there mentioned, he shall pay such contributions at the rate specified in the second column of the Table in Schedule 7 to the Firemen's Pension Scheme 1971(a) opposite to the number of completed years of service reckonable by him, at the time he made his election, by virtue of a period of service, or a period for which a special pension was payable, before 26th August 1966.

2. Where additional pension contributions are payable by a man in pursuance of an election under Article 58(2), he shall pay such contributions at the rate specified in the second column of the following Table opposite to the number of completed years of pensionable service reckonable by him immediately before 1st July 1973 otherwise than by virtue of service as a regular fireman on or after 1st April 1972.

3. Where further pension contributions are payable by a man in pursuance of an election under Article 58(3), he shall pay such contributions at the rate specified in the third column of the following Table opposite to the number of completed years of pensionable service reckonable by him immediately before 1st July 1973 otherwise than by virtue of service as a regular fireman on or after 1st April 1972.

(a) See S.I. 1971/145 (1971 I, p. 320).

Sch. 7 (contd.)

TABLE

Completed years of pensionable service taken into account	Rate expressed as a percentage of pensionable pay	
	Additional contributions	Further contributions
1	0.1	0.1
2	0.1	0.1
3	0.2	0.2
4	0.2	0.2
5	0.3	0.3
6	0.4	0.3
7	0.5	0.4
8	0.6	0.5
9	0.7	0.6
10	0.8	0.7
11	1.0	0.8
12	1.2	0.9
13	1.4	1.1
14	1.7	1.3
15	2.0	1.5
16	2.4	1.8
17	2.9	2.2
18	3.6	2.7
19	4.2	3.1
20	4.4	3.3
21	4.6	3.4
22	4.8	3.5
23	5.0	3.6
24	5.1	3.8
25	5.3	3.9
26	5.5	4.0
27	5.6	4.2
28	5.8	4.3
29	6.0	4.4
30	6.1	4.5
31	6.1	4.5
32	6.2	4.6
33	6.3	4.6
34	6.4	4.7
35	6.4	4.7
36	6.5	4.8
37	6.6	4.9
38	6.6	4.9
39	6.7	5.0

PART II

Article 59

LUMP SUMS

1. Where a payment by way of a lump sum is payable by a man in pursuance of an election under Article 59(2) or (3), it shall be calculated by reference to his annual pensionable pay immediately before 1st April 1972 or, if he was not then in receipt of pensionable pay, on the date on which he was thereafter first in receipt of such pay.

Sch. 7 (contd.)

2. Where an additional payment by way of a lump sum is payable by a man in pursuance of an election under Article 59(2), the sum shall be of an amount equal to the percentage of his said pensionable pay specified in the second column of the following Table opposite to the number of completed years of pensionable service reckonable by him immediately before 1st July 1973 otherwise than by virtue of service as a regular fireman on or after 1st April 1972.

3. Where a further payment by way of a lump sum is payable by a man in pursuance of an election under Regulation 59(3), the sum shall be of an amount equal to the percentage of his said pensionable pay specified in the third column of the following Table opposite to the number of years of pensionable service reckonable by him immediately before 1st July 1973 otherwise than by virtue of service as a regular fireman on or after 1st April 1972.

TABLE

Completed years of pensionable service taken into account	Payment expressed as a percentage of annual pensionable pay	
	Additional payment	Further payment
1	1.2	1.0
2	2.0	1.6
3	2.8	2.3
4	3.6	3.0
5	4.5	3.7
6	5.4	4.4
7	6.4	5.2
8	7.4	5.9
9	8.4	6.6
10	9.4	7.3
11	10.4	8.1
12	11.4	8.8
13	12.4	9.6
14	13.4	10.3
15	14.5	11.1
16	15.6	11.8
17	16.7	12.6
18	17.8	13.3
19	18.9	14.0
20	20.0	14.8
21	21.1	15.5
22	22.2	16.3
23	23.3	17.1
24	24.4	17.9
25	25.3	18.6
26	26.1	19.2
27	26.8	19.7
28	27.4	20.2
29	28.0	20.6
30	28.5	20.9
31	28.7	21.1
32	28.8	21.2
33	28.9	21.3
34	29.1	21.4
35	29.2	21.5
36	29.4	21.6
37	29.5	21.7
38	29.7	21.8
39 or more	29.9	22.0

SCHEDULE 8

Article 67

APPEALS TO MEDICAL REFEREES

1. The person seeking to appeal must institute his appeal within 14 days from the date on which he is supplied by the fire authority with a copy of the opinion in pursuance of Article 67:

Provided that where the fire authority are of opinion that a person's failure to institute his appeal within the time allowed was not due to his own default, they may (notwithstanding that the said time has expired) extend it by so much as they think fit, but so that the appeal shall in any event be instituted before the expiration of 6 months from the aforesaid date.

2. He must institute his appeal by giving to the fire authority a notice in writing informing them of his intention to appeal and stating the grounds on which he proposes to appeal.

Any such notice shall state the appellant's name and his place of residence.

3.—(1) Upon receiving the said notice the fire authority shall supply the Secretary of State with 2 copies thereof and 2 copies of the opinion in question.

(2) The Secretary of State shall supply a copy of the said notice and a copy of the said opinion to the medical referee nominated by the Secretary of State for the purposes of the appeal.

4.—(1) The medical referee so nominated shall forthwith after his nomination inform the appellant and the fire authority that he has been nominated to act as medical referee for the purposes of the appeal.

(2) It shall be the duty of the medical referee to secure that the appellant and the fire authority are at all material times aware of an address at which communications may be delivered to the referee for the purposes of the appeal.

5.—(1) Subject to the provisions of this Schedule, the medical referee shall interview the appellant at least once, and may interview him or cause him to be interviewed on such further occasions as the referee thinks necessary for the purpose of determining the appeal.

(2) The medical referee shall appoint a time and place for any such interview and shall give reasonable notice thereof to the appellant and to the fire authority.

(3) Where the medical referee is satisfied that the appellant is unable to travel, the place appointed for any such interview shall be the place where the appellant resides.

(4) It shall be the duty of the appellant to attend at the time and place appointed for any such interview and to submit himself at the interview to medical examination by the medical referee or by any person appointed by the referee for that purpose.

(5) If the appellant fails to comply with sub-paragraph (4), the medical referee may, unless satisfied that there was reasonable cause for the failure, dispense with the interview required by the preceding provisions of this Schedule, or, as the case may be, with any further interview, and give his decision upon such information as is then available.

(6) Any such interview may be attended by a person appointed for the purpose by the fire authority and by a person so appointed by the appellant.

6. At any time before the interview, or before the last interview if there is more than one, either party may submit to the medical referee a statement relating to the subject matter of the appeal, and the referee shall take account of any such statement and give to the other party such opportunity as he thinks necessary of replying thereto.

Sch. 8 (*contd.*)

7. The decision of the medical referee shall take the form of an opinion on the medical questions which appear to him to be relevant, and the opinion shall be delivered in writing to both parties.

8.—(1) The medical referee shall be entitled to such fees and allowances as the Secretary of State may from time to time determine.

(2) The said fees and allowances shall be paid by the fire authority, and shall be treated as part of the fire authority's expenses for the purposes of the following provisions of this Schedule.

9.—(1) Save as hereinafter provided, the expenses of each party to the appeal shall be borne by that party.

(2) Where the medical referee decides in favour of the fire authority, the authority may, unless the referee otherwise directs, require the appellant to pay toward the cost of the appeal such sum not exceeding the referee's total fees and allowances as the authority think fit.

(3) Where the medical referee decides in favour of the appellant, the fire authority shall, unless the referee otherwise directs, refund to the appellant any personal expenses actually and reasonably incurred by the appellant in respect of any such interview as is mentioned in paragraph 5 and, if any duly qualified medical practitioner chosen by the appellant has attended any such interview, any fees and expenses reasonably paid by the appellant in respect of such attendance.

(4) If in connection with any payment claimed under this paragraph any question arises as to whether the decision of the medical referee is in favour of the fire authority or the appellant, that question shall be decided by the referee, or, in default of a decision by the referee, by the Secretary of State.

10. An appellant shall be deemed to have received any information, notice or document which he is entitled to receive for the purposes of this Schedule if that information, notice or document has been duly posted in a letter addressed to the appellant at his last known place of residence.

Article 71

SCHEDULE 9

TRANSFER VALUES

1.—(1) The sum to be paid by a fire authority under Article 71 shall be calculated in accordance with this paragraph.

(2) The amounts shown in the second and third columns of the following Table in relation to an age which corresponds with that of the fireman are to be multiplied respectively by the number of completed years and the number of completed months aggregating less than a year which the fireman is entitled to reckon as pensionable service immediately before he ceases to be employed by the said authority:

Provided that in calculating the number of completed years and completed months which he is entitled to reckon as pensionable service—

(a) any period by which his pensionable service exceeds 20 years but does not exceed 30 years shall be counted twice;

(b) any period by which his pensionable service exceeds 30 years shall be ignored.

(3) The sum of the products aforesaid is an amount appropriate in respect of £100 of annual pensionable pay.

(4) The total sum referred to in sub-paragraph (1) is to be calculated proportionately by reference to the annual pensionable pay of the fireman.

(5) In this paragraph the expression "annual pensionable pay" means the annual value of the fireman's pensionable pay immediately before he ceases to be employed by the authority, any retrospective increase therein granted after that time being ignored.

Sch. 9 (contd.)

TABLE

Age in years	Amount for £100 of annual pensionable pay in respect of each completed	
	Year	Month
Under 35	£ 18·20	£ 1·50
35 but under 36	18·30	1·55
36 " " 37	18·45	1·55
37 " " 38	18·65	1·55
38 " " 39	18·90	1·60
39 " " 40	19·20	1·60
40 " " 41	19·45	1·60
41 " " 42	19·75	1·65
42 " " 43	20·05	1·65
43 " " 44	20·40	1·70
44 " " 45	20·75	1·75
45 " " 46	21·10	1·75
46 " " 47	21·45	1·80
47 " " 48	21·80	1·80
48 " " 49	22·15	1·85
49 " " 50	22·50	1·90
50 " " 51	22·85	1·90
51 " " 52	23·20	1·95
52 " " 53	23·60	1·95
53 " " 54	24·05	2·00
54 " " 55	24·60	2·05
55 and over	25·20	2·10

2. The sum to be paid by a fire authority under Article 71, calculated in accordance with the preceding provisions of this Schedule, shall be reduced by the amount he has, under Article 48(1), undertaken to pay in accordance with Schedule 4.

3. Except in the case of a fireman who is paying pension contributions at the rate of 1p a week less than the appropriate percentage of his pensionable pay, the sum to be paid by a fire authority under Article 71, calculated in accordance with the preceding provisions of this Schedule, shall be reduced by an amount calculated in accordance with paragraph 5.

4. In the case of a fireman entitled to reckon pensionable service, immediately before he ceases to be employed by a fire authority, by virtue of a participating period of relevant employment, the sum to be paid by that authority under Article 71, calculated in accordance with the preceding provisions of this Schedule, shall be reduced by an amount calculated in accordance with paragraph 5.

5.—(1) The amount shown in the second column of the following Table in relation to an age which corresponds with that of the fireman immediately before he ceases to be employed by the authority is the amount of the reduction referred to in paragraph 3 or, as the case may be, paragraph 4 in respect of each £1 by which the annual value of his pension would be reduced—

- (a) under paragraph 1 of Part VII of Schedule 1, in a case in which paragraph 3 applies;
- (b) under paragraphs 2 and 3 of the said Part VII, in a case in which paragraph 4 applies,

Sch. 9 (contd.)

in respect of any period beyond the age of 65 years, if he had retired immediately before he ceased to be employed by the authority and had been entitled to a pension.

(2) The total reduction is to be calculated proportionately by reference to the amount by which the annual value of such a pension would be so reduced.

TABLE

Age in years	Amount of the reduction in respect of each £1 by which the annual value of a pension would be reduced
	£
Under 25	1·70
25 but under 26	1·80
26 " " 27	1·90
27 " " 28	2·00
28 " " 29	2·10
29 " " 30	2·20
30 " " 31	2·35
31 " " 32	2·45
32 " " 33	2·55
33 " " 34	2·65
34 " " 35	2·75
35 " " 36	2·90
36 " " 37	3·00
37 " " 38	3·10
38 " " 39	3·25
39 " " 40	3·35
40 " " 41	3·50
41 " " 42	3·65
42 " " 43	3·75
43 " " 44	3·90
44 " " 45	4·05
45 " " 46	4·20
46 " " 47	4·35
47 " " 48	4·50
48 " " 49	4·70
49 " " 50	4·90
50 " " 51	5·05
51 " " 52	5·25
52 " " 53	5·45
53 " " 54	5·65
54 " " 55	5·85
55 " " 56	6·10
56 " " 57	6·40
57 " " 58	6·70
58 " " 59	7·00
59 " " 60	7·30

Article 91

SCHEDULE 10

MODIFICATIONS TO SCHEME IN ITS APPLICATION TO FIREMEN SERVING ON 10TH JULY 1956

1. For the words "average pensionable pay" wherever they occur, there shall be substituted the words "pensionable pay".

2. For the words "average annual pensionable pay" wherever they occur, there shall be substituted the words "annual pensionable pay".

Sch. 10 (contd.)

3. In Article 12(1)—
 - (a) the words “has attained the age of 50 years and” shall be omitted, and
 - (b) for the words “Parts VII and VIII” there shall be substituted the words “Part VII”.
4. In Article 13(2) and (4) for the words “Parts VII and VIII”, in both places, there shall be substituted the words “Part VII”.
5. In Article 14(2)—
 - (a) for the words “Part III” there shall be substituted the words “Part II”, and
 - (b) for the words “Parts VII and VIII” there shall be substituted the words “Part VII”.
6. In Article 16(2) for the words “Parts VII and VIII” there shall be substituted the words “Part VII”.
7. For Article 22(2) and (3) there shall be substituted the following provision:—

“(2) A widow to whom this Article applies shall be entitled to an ordinary pension calculated in accordance with Part I of Schedule 2.”.
8. In Article 23(3) for the words “Parts III and V” there shall be substituted the words “Part III”.
9. In Article 25(2) for the words “Parts IV and V” there shall be substituted the words “Scheme I of Part I”.
10. In Article 27(3) sub-paragraph (a) shall be omitted.
11. In Article 34(2) for the words “Parts II and IV” there shall be substituted the words “Part II”.
12. In Article 36(2) for the words “Parts III” there shall be substituted the words “Parts I”.
13. For Article 55(2), (3), (4) and (5) there shall be substituted the following provisions:—
 - (2) For the purpose of determining the benefits payable under this Scheme on the death or retirement of a regular fireman—
 - (a) the expression “pensionable pay” means his pensionable pay immediately before the death or retirement or, in a case where he was not serving as such a fireman when he died, his pensionable pay immediately before he last ceased to serve as such; and
 - (b) the expression “annual pensionable pay” means the annual value of his said pensionable pay.
 - (3) Where during the relevant period before his death or retirement a regular fireman’s rank has changed, paragraph (2) shall have effect in his case as if his pensionable pay immediately before the death or retirement were his average pensionable pay during that period:

Provided that where during the relevant period—

 - (a) he reverted to a rank from which he had been temporarily promoted (whether before or during that period), or
 - (b) the last change of rank was a promotion,and the said average is less than his pensionable pay would have been, immediately before his death or retirement, had he continued to hold the rank he held before the promotion until he reverted thereto or, as the case may be, until his death or retirement,

Sch. 10 (*contd.*)

then paragraph (2) shall have effect in his case as though he had continued to hold that rank.

In this paragraph the expression "the relevant period" means the period of 3 years ending with the death or retirement."

14. In Article 56(1) for the percentage "6.75%" there shall be substituted the percentage "5%".

15. Articles 57 to 62 shall be omitted.

16. In Article 74(4)(a) for the words "£163.81 a year" there shall be substituted the words "£123.12 a year".

17. In Article 96(2) for sub-paragraphs (a) and (b) there shall be substituted the words "an additional completed year of pensionable service".

18. For Part I of Schedule 1 there shall be substituted the following Part:—

"PART I

Subject as hereafter in this Schedule provided an ordinary pension shall be of an amount equal to 30 sixtieths of the fireman's pensionable pay with the addition of 2 sixtieths for each completed year by which his pensionable service exceeds 25 years up to the maximum set opposite his age at retirement in the following Table:—

TABLE

Years of age of fireman at retirement	Maximum pension expressed in 60ths of pensionable pay
Less than 51	30
Less than 52 but 51 or over	32
Less than 53 but 52 or over	34
Less than 54 but 53 or over	36
Less than 55 but 54 or over	38
55 or over	40"

19. For Part II of Schedule 1 there shall be substituted the following Part:—

"PART II

FIREMAN'S SHORT SERVICE OR ILL-HEALTH PENSION

Subject as hereafter in this Schedule provided, the amount of the short service or ill-health pension shall be not less than a sixtieth nor more than 40 sixtieths of the fireman's pensionable pay and subject as aforesaid shall be equal to a sixtieth of his pensionable pay for each completed year of pensionable service up to 20 years, with the addition of 2 sixtieths for each completed year by which his pensionable service exceeds 20 years."

20. In Part VI of Schedule 1—

(a) in paragraph 2 for the words "as respects the first" to the end shall be omitted; and

(b) in paragraph 3 for the words "a sixtieth for each completed half year" there shall be substituted the words "2 sixtieths for each completed year".

21. Part VIII of Schedule 1 shall be omitted.

22. For Part I of Schedule 2 there shall be substituted the following Part:—

Sch. 10 (*contd.*)

"PART I

WIDOW'S ORDINARY OR ACCRUED PENSION

The amount of a widow's ordinary or accrued pension in respect of each week shall be the amount calculated according to Scheme I set out below, or, in the case of an ordinary pension, where the fireman was entitled to reckon at least 10 years' pensionable service, according to whichever of the two Schemes set out below would yield to the widow the higher pension.

SCHEME I

The pension shall be of such amount that the rate of payment is—

- (a) where the husband's last rank was not higher than that of sub-officer, £123·12 a year;
- (b) where the husband's last rank was higher than that of sub-officer but not higher than that of divisional officer (Grade I), £160·16 a year; or
- (c) where the husband's last rank was higher than that of divisional officer (Grade I), £196·67 a year.

SCHEME II

The pension shall be of such amount that, when it is added to any widow's benefit or retirement pension payable to the widow under the National Insurance Act 1965 in right of her husband's insurance, the total weekly rate of payment is equal to the percentage of his average pensionable pay specified in the second column of the following Table being the percentage set out opposite to the number of his completed years of pensionable service in the first column of the said Table:—

TABLE

Husband's completed years of pensionable service	Total weekly rate
10, 11, 12, 13 and 14	5·0 per cent.
15, 16, 17, 18 and 19	7·5 per cent.
20, 21, 22, 23 and 24	10·0 per cent.
25, 26, 27, 28 and 29	12·5 per cent.
30 or more	16·0 per cent."

23. Parts II, IV and V of Schedule 2 shall be omitted.

24. For Part I of Schedule 3 there shall be substituted the following Part:—

"PART I

CHILD'S ORDINARY OR ACCRUED ALLOWANCE

1. Subject to Part IV of this Schedule, where the mother of the child is alive the child's ordinary or accrued allowance shall be payable at the following rate:—

- (a) where the father's last rank was not higher than that of sub-officer, £45·91 a year;
- (b) where the father's last rank was higher than that of sub-officer but not higher than that of divisional officer (Grade I), £54·78 a year; or
- (c) where the father's last rank was higher than that of divisional officer (Grade I), £67·30 a year.

Sch. 10 (*contd.*)

2. Subject to Part IV of this Schedule, where the father was the child's only surviving parent or in respect of the period after the death of the mother, the child's ordinary or accrued allowance shall be payable at the following rate:—

- (a) where the father's last rank was not higher than that of sub-officer, £67·82 a year, or such higher rate not exceeding £89·73 a year as the fire authority may from time to time determine;
- (b) where the father's last rank was higher than that of sub-officer but not higher than that of divisional officer (Grade I), £80·86 a year, or such higher rate not exceeding £107·47 a year as the fire authority may from time to time determine; or
- (c) where the father's last rank was higher than that of divisional officer (Grade I), £100·69 a year, or such rate not exceeding £134·07 a year as the fire authority may from time to time determine.”.

25. Part III of Schedule 3 shall be omitted.

26. For Part IV of Schedule 3 there shall be substituted the following Part:—

“PART IV

VARIATION OF CHILD'S ALLOWANCE

1.—(1) Subject as hereinafter provided, where under any enactment specified in the first column of the following Table a payment specified in the second column is made to the recipient mentioned in the third column thereof, a child's ordinary or accrued allowance shall be reduced by so much as is necessary to reduce the allowance by the weekly amount specified in the fourth column, and where that reduction is greater than the allowance determined under the preceding provisions of this Schedule, that allowance shall not be payable.

TABLE

1 Enactment	2 Type of Payment	3 Recipient	4 Weekly Reduction
National Insurance Act 1965(a), s. 27 ...	Widowed mother's allowance ...	Child's mother	37p
National Insurance Act 1965, s. 29 ...	Guardian's allowance in respect of the child ...	Child's guardian	60p
National Insurance Act 1965, s. 40 ...	Increased widow's allowance ...	Child's mother	37p
National Insurance Act 1965, s. 40 ...	Increased retirement pension ...	Child's mother	37p
Family Allowances Act 1965(b) ...	Family allowance in respect of the child ...	Any person	25p

(2) Where a woman has 2 or more children who would apart from the provisions of this paragraph be entitled to a child's allowance, only the allowance of the elder or eldest of those children shall be reduced in respect of the payment to her of a widowed mother's allowance, increased widow's allowance or increased retirement pension.”.

(a) 1965 c. 51.

(b) 1965 c. 53.

APPENDIX 3

Article 4

TRANSITORY PROVISIONS

Interpretation

1.—(1) In this Appendix references to the Scheme of 1971 and to the Scheme of 1973 are, respectively, references to the Firemen's Pension Scheme 1971, as amended(a) and to the Firemen's Pension Scheme 1973.

(2) This Appendix shall be construed as one with the Scheme of 1973.

Commutation—variation of notice

2.—(1) This paragraph shall apply to a regular fireman who retired on or after 1st April 1972 but before 1st July 1973, not being a fireman to whom Part XII of the Scheme of 1973 applies.

(2) Where a regular fireman to whom this paragraph applies has given notice of commutation under Article 20 of the Scheme of 1971 (in this paragraph referred to as the "original notice") he may give further notice to the fire authority of his wish to increase the portion of his pension commuted for a lump sum to such portion, not exceeding a quarter of the pension which would be payable but for the provisions of Article 41 of the Scheme of 1973 as (subject to the limitation contained in Article 42 thereof) he may specify.

(3) Where a further notice has been given under sub-paragraph (2) of this paragraph the original notice shall have effect for the purposes of Article 21 of the Scheme of 1973 as if given thereunder but as if the portion of the pension specified therein were that specified in the further notice.

Allocation—variation of notice

3.—(1) This paragraph shall apply to a regular fireman who retired on or after 1st April 1972 but before 1st July 1973, not being a fireman to whom Part XII of the Scheme of 1973 applies.

(2) Where a regular fireman to whom this paragraph applies has given notice of surrender under Article 37 of the Scheme of 1971 (in this paragraph referred to as the "original notice") he may give further notice to the fire authority of his wish to increase the portion of his pension surrendered to such portion as he may specify so, however, that the total portion of the pension which may be surrendered for the purposes of allocation shall not exceed a third of the pension which would be payable but for the provisions of Articles 21 and 41 of the Scheme of 1973 and Part VIII of Schedule 1 thereto.

(3) Where a further notice has been given under sub-paragraph (2) of this paragraph the original notice shall have effect for the purposes of Article 41 of the Scheme of 1973 as if given thereunder but as if the portion of the pension specified therein were that specified in the further notice.

(4) Nothing in this paragraph shall be construed as derogating from any right of a regular fireman under Article 41(1) of the Scheme of 1973 to allocate a further portion of his pension notwithstanding that he has already allocated a portion of that pension.

Allocation—cancellation of notice

4.—(1) This paragraph shall apply to a regular fireman who—

(a) was serving as such immediately before 1st April 1972 or, though not so serving, is entitled to reckon pensionable service otherwise than by virtue of service as a regular fireman on or after that date, and

(b) has exercised the right of election accorded by either Article 58(3), Article 59(3) or Article 60(3) of the Scheme of 1973.

(a) The amending instruments are not relevant to the subject matter hereof.

(2) Where a regular fireman to whom this paragraph applies has given notice of surrender under Article 37 of the Scheme of 1971 (in this paragraph referred to as the "original notice") and the beneficiary specified therein is his wife and she is still alive, he may give further notice to the fire authority of his wish to cancel the original notice.

(3) Where a further notice has been given under paragraph (2) of this paragraph the original notice shall not have effect for the purposes of Article 41 of the Scheme of 1973.

Provisions supplemental to paragraphs 2, 3 and 4

5. Notice to the fire authority under any of the preceding paragraphs shall be given in writing to the fire authority of the brigade in which the man is serving or by whom his pension is payable and shall be given before 1st October 1973.

Awards for a period ending before 1st December 1972

6.—(1) For the purpose of determining the amount payable on account of an award for a period ending before 1st December 1972, the Scheme of 1973 shall have effect subject to the modifications set out in this paragraph.

(2) In Article 74(4)(a) (awards on death of servicemen) for the sum "£163·81" there shall be substituted the sum "£148·27".

(3) In paragraph 2 of Part I of Schedule 2 (widow's ordinary pension) for the sums "£163·81", "£213·37" and "£256·66", in each place where they occur, there shall be substituted, respectively, the sums "£148·27", "£193·62" and "£233·03", and for the sums "£175·28", "£224·84" and "£268·14" there shall be substituted, respectively, the sums "£158·27", "£203·62" and "£243·03".

(4) In paragraph 3 of Part IV of Schedule 2 (widow's accrued pension) for the sums "£163·81", "£213·37" and "£256·66" there shall be substituted, respectively, the sums "£148·27", "£193·62" and "£233·03".

(5) In paragraph 1(4) of Part I of Schedule 3 (child's ordinary allowance) for the sums "£45·91", "£54·78" and "£67·30" there shall be substituted, respectively, the sums "£41·26", "£49·26" and "£60·96".

(6) In paragraph 2(4) of the said Part I for the sums "£67·82", "£89·73", "£80·86", "£107·47", "£100·69" and "£134·07" there shall be substituted, respectively, the sums "£61·58", "£81·28", "£73·27", "£97·29", "£91·13" and "£121·30".

(7) In paragraph 16 of Schedule 10 (firemen serving on 10th July 1956) for the sum "£123·12" there shall be substituted the sum "£111·20".

(8) In paragraph 22 of Schedule 10 for the sums "£123·12", "£160·16" and "£196·67" there shall be substituted, respectively, the sums "£111·20", "£145·22" and "£178·27".

(9) In paragraph 24 of Schedule 10 for the sums "£45·91", "£54·78", "£67·30", "£67·82", "£89·73", "£80·86", "£107·47", "£100·69" and "£134·07" there shall be substituted, respectively, the sums "£41·26", "£49·26", "£60·96", "£61·58", "£81·28", "£73·27", "£97·29", "£91·13" and "£121·30".

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order, which has effect as from 1st April 1972 (retrospective effect is authorised by sections 12 and 16 of the Superannuation Act 1972), brings the Firemen's Pension Scheme 1973, set out in Appendix 2, into operation.

The Scheme of 1973 applies to the exclusion of the Firemen's Pension Scheme 1971 (*see* S.I. 1971/145) in the case of firemen with service on or after 1st April 1972 (Article 2 of the Order and Article 1 of the Scheme). It has effect subject to the transitory provisions contained in Appendix 3 (Article 1(3) of the Scheme). The main differences between the Schemes of 1973 and of 1971 are described below.

The normal qualifying period of service for an ill-health or short service pension is reduced from 10 to 5 years (Articles 13 and 14). Ill-health pensions are payable at enhanced rates (Part III of Schedule 1).

A fireman disabled as a result of an injury received in the execution of duty is entitled not only to an injury pension (corresponding to a special pension under the Scheme of 1971) but also to a gratuity (Article 15). Injury pensions are payable at enhanced rates (Part V of Schedule 1).

A person with 5 years' service who has attained the age of 26 years may, on retiring in circumstances in which no other award is payable, elect to be granted a deferred pension instead of a return of contributions (Article 16).

Widows' pensions and children's allowances are payable at enhanced rates (Schedules 2 and 3), in particular in respect of the first 13 weeks for which they are payable. Where a fireman dies as the result of an injury received in the execution of duty a gratuity is normally payable in addition to a special pension (Article 23(2)). Provision is made for the payment of pensions and allowances to the widows and children of men who have elected to be granted deferred pensions (Articles 25 and 36).

Where a fireman dies as a result of an injury received in the execution of duty, the fire authority may, in their discretion, grant a special pension to an adult relative who was substantially dependent on him (Article 31).

Awards are normally calculated on pensionable pay averaged over the last year, instead of the last 3 years, of service (Article 55).

Only where a fireman has paid pension contributions throughout his period of service at a rate related to 6.75% of his pensionable pay, or equivalent "additional" or "further" payments are made, are his widow and children entitled to the full benefit of the enhanced rates of dependants' awards. Articles 58 to 62 enable a person to elect to make these equivalent payments.

The Scheme of 1973 (like that of 1971) contains special provisions applicable to certain firemen who were serving on 10th July 1956 (Part XII). Unless they otherwise elect under Article 89 or 90, the Scheme applies subject to specified modifications (Article 91 and Schedule 10) and not all the changes mentioned above have effect in relation to them.

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