

**FIRE SERVICES****Firemen's Pension Scheme Order (Northern Ireland) 1973**

ORDER, DATED 1ST OCTOBER 1973, MADE BY THE MINISTRY OF HOME AFFAIRS UNDER SECTION 17 OF THE FIRE SERVICES ACT (NORTHERN IRELAND) 1969.

The Ministry of Home Affairs, with the approval of the Ministry of Finance, on behalf of the Secretary of State in exercise of the powers conferred on it by section 17 of the Fire Services Act (Northern Ireland) 1969(a) and of every other power enabling it in that behalf, hereby makes the following Order:—

*Citation*

1. This Order may be cited as the Firemen's Pension Scheme Order (Northern Ireland) 1973.

*Commencement and effect*

2. This Order shall come into operation on the 1st October 1973 and shall have effect from 1st April 1972.

*Revocations*

3.—(1) The Firemen's Pension Scheme (Northern Ireland) 1971 as set out in the Appendix to the Firemen's Pension Scheme Order (Northern Ireland) 1971(b) and the Orders set out in Appendix 1 to this Order shall cease to have effect except in cases 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 the Fire Force of the Northern Ireland Fire Authority before 1st April 1972; or
- (b) a person, being a serviceman who did not resume service as a member of the Fire Force of the Northern Ireland Fire Authority whose period of relevant service in the armed forces ended before 1st April 1972.

(2) Any scheme maintained by the Council of the County Borough of Belfast under section 26(3) of the Fire Service Act (Northern Ireland) 1969 shall cease to have effect except in cases 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 the Fire Brigade maintained by the said Council before 1st October 1973; or
- (b) a person, being a serviceman who did not resume service as a member of the said Fire Brigade whose period of relevant service in the armed forces ended before 1st October 1973:

Provided that where an award or payment has been made to or in respect of or related to a person between 1st April 1972 and 30th September 1973 under the provisions of any such scheme, the application of Articles 53, 54, 55, 56 and of any other relevant Article of the Scheme as set out in Appendix 2 to this Order shall have effect in respect of such a person as from the 1st April 1972 as if such person were a person to whom the Scheme applies.

(3) The Firemen's Pension Scheme (Amendment) (No. 2) Order (Northern Ireland) 1973(c) is hereby revoked.

(4) The Fire Services (Conditions of Service) (Amendment) Regulations (Northern Ireland) 1973(d) are hereby revoked.

*Transitory provisions*

4. The Pension Scheme set out in Appendix 2 to this Order (herein referred to as the Firemen's Pension Scheme (Northern Ireland) 1973) shall have effect subject to any transitory provisions in Appendix 3.

Sealed with the Official Seal of the Ministry of Home Affairs for Northern Ireland this 27th day of September 1973.

(L.S.)

*E. N. Barry,*  
Assistant Secretary.

The Ministry of Finance on behalf of the Secretary of State hereby approves of the foregoing Order.

Sealed with the Official Seal of the Ministry of Finance for Northern Ireland this 1st day of October 1973.

(L.S.)

*C. F. Darling,*  
Assistant Secretary.

APPENDIX 1

**Certain Orders ceasing to have effect subject to the provisions of  
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The Firemen's Pension Scheme (Amending) Order (Northern Ireland) 1972(e).

The Firemen's Pension Scheme (Amending) (No. 2) Order (Northern Ireland) 1972(f).

The Firemen's Pension Scheme (Amendment) Order (Northern Ireland) 1973(g).

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(e) S.R. & O. (N.I.) 1972, No. 157.  
(f) S.R. & O. (N.I.) 1972, No. 379.

(g) S.R. & O. (N.I.) 1973, No. 1

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## PART I

## CITATION, INTERPRETATION, ETC.

*Citation, effect, transitional provisions etc.*

1.—(1) This Scheme may be cited as the Firemen's Pension Scheme (Northern Ireland) 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 the brigade before 1st April 1972, or
- (b) a person being a serviceman who did not resume service as a member of the brigade, whose period of relevant service in the armed forces ended before 1st April 1972,
- (c) a person who did not exercise the option given in Regulation 53 of the Belfast Fire Brigade Scheme made on the 1st day of May 1953 by the Council of the County Borough of Belfast,

including an award on the death of such a person on or after the said date; provided however that the Modified Scheme as set out in Schedule 8 shall apply to any person excluded from the scope of this Scheme by virtue of Article 1(2)(c).

(3) Subject as aforesaid and to the transitory provisions contained in Appendix 3 to the Firemen's Pension Scheme Order (Northern Ireland) 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 (Northern Ireland) 1971, or any Scheme maintained by the Council of the County Borough of Belfast under the Principal Act 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).

*Meaning of "qualifying injury"*

2.—(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; or
- (b) as a fire officer or fireman in the fire brigade of a fire authority constituted under the Fire Services Act (Northern Ireland) 1947(h), as a fire officer or fireman in the fire brigade of the Council of the County Borough of Belfast established in pursuance of section 12 of the Fire Services (Amendment) Act (Northern Ireland) 1950(i) or as a member of the National Fire Service (Northern Ireland) after 19th March 1946:

Provided that sub-paragraph (b) shall apply if the injury was received during a period of service which the person is entitled to reckon as pensionable service for the purposes of this Scheme.

(2) Except 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 retained fireman.

(h) 1947. c. 10, as amended by 1947. c. 23.

(i) 1950. c. 4.



(3) 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.*

3.—(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.

(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 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 Authority.

*Meaning of "aggregate contributions"*

4. In this Scheme the expression "aggregate contributions" means in relation to a regular fireman all payments made by him to the 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—

- (a) by way of rateable deductions from pay,
- (b) by way of such additional and further contributions as are mentioned in Articles 51 and 52,
- (c) by way of such a lump sum as is mentioned in Article 53, and
- (d) in pursuance of such an undertaking as is mentioned in Schedule 4.

*Meaning of reference to awards*

5.—(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 44, 45 or 50(4) includes a reference to a pension or other award, as the case may be, under a previous Scheme.

(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 37.

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

6.—(1) In this Scheme the following expressions shall have the meanings respectively which they have for the purposes of the National Insurance Act (Northern Ireland) 1966(j):—

“employed contributor's employment”;

“graduated contributions”;

“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 this Scheme, being service in Great Britain, this Scheme shall have effect as if any reference to the National Insurance Act (Northern Ireland) 1966 included a reference to any enactment of the Parliament of the United Kingdom making provision for corresponding purposes.

*Meaning of certain expressions*

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

“the Authority” means the Fire Authority for Northern Ireland;

“award” means a pension, allowance, gratuity or award by way of return of aggregate contributions;

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

“the Belfast Fire Brigade Scheme” means any Scheme established under section 13 of the Fire Services (Amendment) Act (Northern Ireland) 1950;

“brigade” means any fire brigade maintained under the Principal Act including one established under the Fire Services (Amendment) Act (Northern Ireland) 1950 and in existence on 30th September 1973;

“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 the brigade including a regular fireman;

“injury” includes disease;

“Ministry” means the Ministry of Home Affairs;

“previous Scheme” means the Firemen’s Pension Scheme (Northern Ireland) 1971, the Fire Services (Fire Officers and Firemen) Pensions Order (Northern Ireland) 1955(k), the Fire Services (Part-time Fire Officers and Firemen) Pensions Order (Northern Ireland) 1955(l), or any scheme maintained by the Council of the County Borough of Belfast under section 26(3) of the Principal Act, as from time to time in force;

“principal Act” means the Fire Services Act (Northern Ireland) 1969;

“regular fireman” means a member of the brigade employed in a whole-time capacity;

“retained fireman” means a member of the brigade employed in a part-time capacity whose remuneration includes an annual retaining fee;

“rank” includes the post of chief officer;

“relative” means wife, widow, parent, grandparent or child, or any person who is a child of such 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(m) other than service specified in sub-paragraph (b) of paragraph 5 thereof;

(b) part-time service under the National Service Act 1948(n), 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 the 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 the 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 the fire brigade shall be taken to retire immediately following his last day of service.

## PART II

## AWARDS ON RETIREMENT OF REGULAR FIREMEN

*Fireman's ordinary pension*

8.—(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 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 Authority.

*Fireman's short service award*

9.—(1) Every regular fireman who is required to retire on account of age, but is not entitled to an ordinary pension under Article 8 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*

10.—(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.

*Fireman's injury awards*

11.—(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*

12.—(1) This Article shall apply to a regular fireman who retires in circumstances in which no transfer value 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, and

(c) elects that this paragraph shall apply in his case by notice in writing given to the Authority within 3 months of 1st October 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 Authority, in respect of any period thereafter.

(3) In the case of a regular fireman who retired before 1st October 1973, an election under paragraph (2)(c) shall be of no effect unless within the period there mentioned he repays to the Authority any award made in his case under Article 45(1) of the Firemen's Pension Scheme (Northern Ireland) 1971 or any corresponding provision in the Belfast Fire Brigade Scheme.

(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*

13.—(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 14, 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 14(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 11 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 17 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 37, 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*

14.—(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 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 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 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 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 11, the injury pension shall be terminated.

*Reassessment of fireman's injury pension*

15.—(1) Where a person is in receipt of a fireman's injury pension, the 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 consideration 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 Authority so resolve.

*Reduction of award in case of default*

16, 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 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*

17.—(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 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 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 38) 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 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 14.

(6) Where a person retires or has retired and a notice of commutation given by him has become or becomes effective, the 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 67(3) or 70 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 (Northern Ireland) 1973, the commutation of a pension, the giving of a notice or any other thing done under Article 9 of the Firemen's Pension Scheme (Northern Ireland) 1971 or any corresponding provision in the Scheme maintained by the Council of the County Borough of Belfast under the Principal Act as from time to time in force, 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*

18.—(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 Parts 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 October 1973, or
- (b) at the date of his death where that date is before 1st January 1974,

and he or, as the case may be, his widow has not exercised the rights of election accorded by Articles 52, 53, 54 and 55 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*

19.—(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 20(2), a widow's special pension shall be calculated in accordance with Parts III and V of Schedule 2.

(4) Without prejudice to Article 20(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 11—
  - (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*

20.—(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 Authority are of the opinion that the preceding condition may be satisfied, and that this Article should apply, or
- (c) the 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 19(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 19(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*

21.—(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*

22.—(1) Where a widow is entitled to an ordinary or special pension and the Authority are satisfied that there are sufficient reasons for granting her a gratuity in lieu thereof, they may, subject to the provisions of Article 36, 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 Authority are precluded by reason of the provisions of Article 36 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*

23.—(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 18 or 19 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*

24. 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*

25.—(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 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 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 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*

26.—(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 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 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*

27.—(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 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 Authority may, in their discretion, from time to time determine.

*Dependent relative's gratuity*

28.—(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 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*

29.—(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*

30.—(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*

31.—(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 20(1) is satisfied and the fireman does not leave a widow entitled to a gratuity under Article 19(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*

32.—(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*

33.—(1) Where a child is entitled to an allowance, and the 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 36, 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 Authority are precluded by reason of the provisions of Article 36 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*

34. 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*

35. 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 on or 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*

36.—(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 Authority shall not under Article 22 or 33 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 22 or 33, and

(b) any lump sum paid under Article 17 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 17 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 69(3) or 70 in an award to a serviceman.

## PART IV

### ALLOCATION OF PENSIONS AND GENERAL PROVISIONS AFFECTING RIGHTS TO AWARDS

#### *Allocation*

37.—(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 Authority stating—

(i) his wish to surrender such portion of his pension as, subject to the limitations contained in paragraph (4) and in Article 38, 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 Authority are satisfied is substantially dependent on him; and

- (b) provide the 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 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 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 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 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 8(2).

(10) For the purposes of this Article no account shall be taken of an increase under Article 67(3) or 70 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 (Northern Ireland) 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 26 of the Firemen's Pension Scheme (Northern Ireland) 1971 or any corresponding provision of the Belfast Fire Brigade Scheme shall have effect for the purposes of this Article as if done thereunder.

#### *Limitation on right to commute or allocate part of a pension*

38.—(1) A regular fireman shall not under Article 17 commute for a lump sum nor under Article 37 allocate in favour of his wife or other dependent 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 Article and of Part VIII of Schedule 1.

(2) For the purposes of this Article no account shall be taken of an increase under Article 67 or 70 in an award to a serviceman.

#### *Prevention of duplication*

39. 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 37(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 14(2), in so far as it is payable under Article 14(4).

*Award not payable in case of transfer*

40.—(1) Where a regular fireman retires or has retired from the brigade and after again becoming such a fireman in that brigade becomes entitled, in the circumstances mentioned in Article 44(1) or (3), to reckon as pensionable service the period of pensionable service he was entitled to reckon on retiring, then, subject to paragraph (3), any award to which he has become entitled on the occasion of that retirement shall cease to be payable.

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

(3) Where an award under Article 12(4) ceases to be payable under paragraph (1) or (2), there shall continue to be payable—

- (a) where the award ceases to be payable under paragraph (1) or (2), 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 51, 52 and 53;
- (b) where the award ceases to be payable under paragraph (2), 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*

41.—(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 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 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 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 Authority at any time think fit—

- (a) be applied for the benefit of any dependent 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*

42. The 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*

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

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

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 fire brigade*

44.—(1) Subject to Article 53(4), where a regular fireman—

- (a) retires or has retired from the brigade—
  - (i) without a pension or with a deferred pension which he has relinquished under Article 14(2); and
  - (ii) without a transfer value becoming payable by the Authority, and
- (b) within twelve months of so retiring and without any intervening service as a regular fireman rejoins or has rejoined that 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 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 51, 52 and 53; 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 Scheme, which was outstanding immediately before his retirement.

(3) Where a regular fireman—

- (a) retires or has retired from the brigade with an ill-health pension; and
- (b) resumes service in the brigade in the circumstances and within the period mentioned in Article 14(3),

he shall be entitled to reckon as pensionable service the period of pensionable service he was entitled to reckon on so retiring.

(4) Where a regular fireman—

- (a) retires or has retired from the brigade without a pension, other than an ill-health pension the unsecured portion of which has been terminated in the circumstances mentioned in Article 14(2);

- (b) without any intervening service as a regular fireman rejoins or has rejoined that brigade; and
- (c) cannot under paragraph (1) or (3) 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 the brigade, or within such longer period as the Authority may in his case allow, to pay in accordance with Schedule 4 a sum calculated in accordance with Schedule 5.

(5) Subject to Article 53(4), this Article shall apply in the case of a regular fireman—

- (a) who was serving as a regular fireman in a fire brigade maintained under the Fire Services Act 1947(o);
- (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 Authority and the fire authority for the said fire brigade;
- (c) in respect of whom a transfer value relating to his former service is paid to the Authority;
- (d) who, within 3 months of his becoming a regular fireman or within such longer period as the 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, 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.

(6) Such a person as is mentioned in paragraph (5) shall be entitled to reckon as pensionable service the period of service which is or was reckonable for the purpose of calculating the transfer value.

(7) In this Article, the expression "Award by way of return of contributions" means 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, 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.

*Period during which an injury or a special pension was payable*

45.—(1) Subject to Article 53(4), where a regular fireman—

- (a) retires or has retired from the 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 14(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 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 51 and 52) 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 respect 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*

46.—(1) Where a regular fireman is or has been absent from duty without pay, the 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 Authority the contributions (including such additional or further contributions as are mentioned in Articles 51 and 52) which would have been payable by him for that period if he had been paid at the rate applicable to his case.

*Certificates of pensionable service*

47.—(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 Articles 44, 45 or 72, then the 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 Ministry 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 Ministry 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 72 if and when he resumes service in the brigade.

*Prevention of double reckoning*

48. 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*

49.—(1) In this Scheme the expression “pensionable pay” means the pay exclusive of allowances of a regular fireman as determined in relation to his rank, or, where this is appropriate, his pay exclusive of allowances 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*

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

(2) In the case of—

(a) a person who did not elect to pay pension contributions at the lower rate under paragraph 36(3) of the Schedule to the Fire Services (Fire Officers and Firemen) Pensions Order (Northern Ireland) 1955, or

(b) a person who under Article 43 or Article 44 becomes entitled to reckon as pensionable service whole-time service in any fire brigade maintained under the Fire Services Act 1947 or the principal Act and who immediately before he retired from such fire brigade was under any superannuation scheme paying contributions equal to 2d. (£0.01) a week less than a percentage of his pay in such brigade,

this Article shall apply as if for any reference to 1s. 2d. (£0.06) a week less than a percentage of his pensionable pay there were substituted a reference to 2d. (£0.01) a week less than that percentage of his pensionable pay.

*Additional contributions—preserved provisions*

51.—(1) Where a man elected, in accordance with Article 42 of the Firemen's Pension Scheme (Northern Ireland) 1971, 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 6 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 Authority of his intention to retire for the purpose of joining another brigade.

*Additional and further payments by way of contributions—current provisions*

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

- (a) is, on 1st October 1973, serving as such, and entitled to reckon less than 41 years' pensionable service, and
- (b) cannot, before 1st April 1977, be required to retire on account of age in accordance with Article 80.

(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 6.

(3) Subject to Article 56(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 6.

(4) Where a man elects as mentioned in paragraphs (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 October 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 before 1st October 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 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 51 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*

53.—(1) This Article shall apply to a regular fireman who is, on 1st October 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 52(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 6, 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 56(2), a man to whom this Article applies may, for the purpose mentioned in Article 52(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 6, 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 44 or 45, shall only apply by virtue of the conditions specified in the Article in question being satisfied on or after 1st October, 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.

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

54.—(1) This Article shall apply to a regular fireman who is, on 1st October 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 52(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 56(2), a man to whom this Article applies may, for the purpose mentioned in Article 52(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 6 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 Authority and may, without prejudice to any other method of payment, be discharged by way of deductions of appropriate amounts made by the Authority from instalments of his pension.

*Additional and further payments in the case of deceased fireman*

55.—(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 January 1974—

- (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 52, 53 or 54.

(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 56(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 54 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 51 to 55*

56.—(1) In the case of a regular fireman to whom both Articles 52 and 53 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 52(3) or Article 53(3) unless he also exercises the right of election accorded by either Article 52(2) or Article 53(2);
- (b) he shall not exercise the right of election accorded by paragraph (3) of Article 54 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 55 unless she also exercises the right of election accorded by paragraph (2) thereof.

(3) Any election under Article 52, 53, 54 or 55 shall be made by notice in writing to the Authority.

(4) Any such election, and any payment of a lump sum in pursuance of an election under Article 53, shall be made before 1st January 1974 except that a widow of a man who has died before the said date may exercise a right of election accorded by Article 55 on or after the said date if she does so within 3 months of his death.

(5) Where a regular fireman elects under Article 53 or Article 54 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 51 and 52 to retirement shall be construed as excluding a reference to a man's retirement in pursuance of a written notice to the Authority of his intention to retire for the purpose of joining another brigade.

*Method of payment of pension contributions*

57. 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 Authority from the said instalment.

Provided that the Authority may allow additional or further contributions due in respect of past periods by virtue of an election under Article 52 to be discharged by deductions from instalments of pay over such period as the Authority considers reasonable.

*Repayment of contributions on death*

58. 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*

59.—(1) Where a regular fireman is dismissed from the brigade otherwise than for one of the offences mentioned in paragraph (3), the 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 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 (Northern Ireland) 1973(p);
- (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).

## PART VII

### DETERMINATION OF QUESTIONS AND APPEALS

*General functions of Authority*

60.—(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 Authority.

(2) Subject to the provisions of this Scheme, the 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 incapacitated for the performance of his duty as a fireman by infirmity of mind or body;



- (b) whether any such incapacity is likely to be permanent;
- (c) whether a person's incapacity has been occasioned by a qualifying injury;
- (d) whether a person has become capable of performing the duties of a fireman;
- (e) the extent 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 the Authority are unable to obtain such evidence by reason of the wilful or negligent failure of any person to submit to medical examination by some duly qualified medical practitioner or practitioners 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 Authority's medical practitioner*

61.—(1) Where for the purposes of any decision which falls to be made by the 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 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, within 14 days from the date on which he is supplied by the Authority with a copy of the opinion in pursuance of paragraph (2), appeal against the opinion to an independent person nominated by the Ministry hereinafter referred to as a "medical referee".

(4) The Authority shall be bound by any decision on a medical question duly given on any such appeal.

*Appeal against decision of Authority*

62.—(1) Where any person claims that he is entitled to an award or to any payment on account of an award and the Authority do not admit the claim at all, or do not admit the claim to the full extent thereof, the person concerned may apply to the Authority for a reconsideration of the claim, and, if aggrieved by the decision on such reconsideration, may within 2 months of being informed by the Authority of the decision appeal to the Ministry against the decision of the Authority.

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

(3) After considering in accordance with the foregoing provisions of this Article all the circumstances of the case the Ministry shall either allow the claim to such extent as it thinks fit or dismiss the appeal:

Provided that nothing in this paragraph shall authorise the Ministry to control or restrict the exercise of any discretion which is by this Scheme vested in the Authority.

(4) The decision of the Ministry on an appeal under paragraph (1) shall be final and binding on both parties.

## PART VIII

## PAYMENT OF AWARDS AND FINANCIAL PROVISIONS

*Payment of awards generally*

63.—(1) Subject to the provisions of this Scheme, every pension or allowance shall, subject to such delay as may be necessary for the purpose of determining any question arising in respect thereof, be discharged by payments in advance at such reasonable intervals as the Authority may determine.

(2) 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.

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

(4) Subject to the provisions of this Scheme and, in particular, of Article 11 (injury pension) and of Article 12 (deferred pension), a pension payable to a fireman shall be payable as from the date of his retirement.

(5) 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 11, in which case the pension or allowance shall be payable as from the first anniversary of his death or such earlier date as the Authority, in the circumstances of the case, think fit.

(6) Subject to the provisions of this Scheme, every gratuity shall be paid in one sum:

Provided that where the 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.

(7) Without prejudice to the provisions of any such regulations as are mentioned in section 59(5) of the National Insurance Act (Northern Ireland) 1966 where a regular fireman is entitled under Article 12(4) to an award by way of repayment of his aggregate contributions the 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 occurs first.

(8) 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(q) the Authority may deduct the tax for the time being chargeable thereon under the said paragraph 2.

*Payment of awards in special cases*

64.—(1) Where any sum is due on account of a pension, and any debt is due to the 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 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 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 under this paragraph shall, subject to and in accordance with any directions of the 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.

#### *Payment of transfer values*

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

- (a) retires or subject to the next following paragraph has retired from service as a regular fireman in the brigade—
  - (i) without being entitled to a pension, or,
  - (ii) if so entitled, has not received any payment in respect of that pension;
- (b) becomes or has become a regular fireman in a brigade maintained under the Fire Services Act 1947 within 12 months of so retiring (or such longer period as may be agreed between the Authority and the fire authority for the latter brigade), without any such intervening service as a regular fireman;
- (c) within 3 months of so becoming such a regular fireman or within 6 months of the coming into operation of this Scheme, whichever period last expires, notifies the fire authority for that brigade that he desires this Article to apply in his case.

(2) Where by virtue of his service as a regular fireman and subject to the payment of a transfer value he is entitled to reckon such service for the purposes of the Fireman's Pension Scheme for the time being in force under section 26 of the Fire Services Act 1947, the Authority shall pay to the fire authority for the latter brigade a transfer value calculated in accordance with Schedule 7.

#### *Expenses and receipts*

66. The 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 Scheme.

## PART IX

## SERVICEMEN

*Awards to servicemen*

67.—(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 the 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 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*

68.—(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 18(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 23 as though he died while serving as a regular fireman.

(3) Any child of such person shall be entitled to an allowance as though he were mentioned in Article 29.

(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 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*

69. In relation to a serviceman who dies during his relevant service in the armed forces, Article 28 shall apply as though he died while serving as a regular fireman.

*Servicemen who resume service as regular firemen*

70. 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 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 67 or by Article 68.

*Servicemen who do not resume service in the brigade*

71. If a serviceman within one month of the end of his period of relevant service in the armed forces does not resume service in the brigade, he shall be treated for the purposes of Articles 14, 24, 35, 40, 44 and 49 as having left the brigade at the end of that period.

*Pensionable service, contributions and pay*

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

(2) A serviceman shall pay pension contributions (including additional and further contributions under Articles 51 and 52) to the Authority in respect of his period of relevant service in the armed forces as though he had remained a regular fireman in the 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 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 the brigade.

*Servicemen deemed not to have retired*

73. 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.

## PART X

## RETAINED FIREMEN

*Retained firemen: injury award*

74.—(1) Where a retained fireman 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 retained member concerned had been such a regular fireman as mentioned in Article 77(2) disabled as aforesaid in the like circumstances; and, accordingly, Articles 10, 11, 14, 15, 16, 17, 37 and 38 shall have effect subject to any necessary modifications.

*Widow of retained fireman: injury award*

75.—(1) Where a retained fireman 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 77(2), and had died from the effects of a qualifying injury received in the like circumstances; and, accordingly, Articles 19, 20, 22, 24, 25 and 26 shall have effect subject to any necessary modifications.

*Child of retained fireman: injury award*

76.—(1) Where a retained fireman dies from the effects of a qualifying injury of 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 20(1) is satisfied and the member does not leave a widow entitled to a gratuity under Article 75, 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 77(2) and had died from the effects of a qualifying injury received in the like circumstances; and, accordingly, Articles 30, 31, 33, 34 and 35 shall have effect subject to any necessary modifications.

(3) This Article shall have effect in the case of a woman member of the brigade subject to Article 77(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 Authority from time to time think fit, not exceeding the rate at which it would have been payable but for this paragraph.

*Auxiliary provisions*

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

- (a) as if for any reference in Article 76(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;
- (b) as if in Article 35(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 retained fireman, 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 retained 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 retained 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 41 and of Parts I, VII, VIII and XII of this Scheme (in so far as they are applicable) shall apply to a member of the 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 the 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*

78.—(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 inspector, assistant inspector or other officer appointed under section 29 of the principal Act;
- (b) 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
- (c) 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 the 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 fireman;
- (c) any reference to a brigade were a reference to the relevant employment;
- (d) Articles 66, 80 and 81 were omitted; and
- (e) any reference to the Authority were a reference to the Ministry of Home Affairs.

## PART XII

## MISCELLANEOUS PROVISIONS

*Exclusive application of Scheme in relation to regular firemen*

79. 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 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 the National Insurance Act (Northern Ireland) 1966 or the National Insurance (Industrial Injuries) Act (Northern Ireland) 1966(r).

*Age of compulsory retirement*

80.—(1) Subject to paragraph (2), retirement shall be compulsory for a regular fireman—

- (a) in the case of a regular fireman of the rank of assistant divisional officer or any higher rank, on attaining the age of 60 years;
- (b) in the case of a regular fireman of the rank of station officer or any lower rank, on attaining the age of 55 years; and

- (c) in the case of a regular fireman of the rank of sub-officer or station officer serving in the rank (or its equivalent) on 1st April 1972 in the brigade of the Northern Ireland Fire Authority (as such was established under the Fire Services (Amendment) Act (Northern Ireland) 1950), on attaining the age of 60 years,

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

(2) Without prejudice to the extension under paragraph (1) 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 Authority, the Authority may extend his service by such period, if any, not exceeding 6 months from his attaining the age of 55 years as is requested to enable him to reckon—

- (a) an additional completed year of pensionable service, in the case of a regular fireman 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) Retirement shall also be compulsory for a regular fireman who has attained the age of 50 years and completed 25 years' pensionable service if he is required to retire by the Authority on the grounds that his retention would not be in the interests of its efficiency.

*Compulsory retirement on grounds of incapacity*

81. A regular fireman may be required to retire on the date the Authority determine he ought to retire on the ground that he is incapacitated for the performance of his duty by infirmity of mind or body and that the incapacity is likely to be permanent:

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



## SCHEDULE 1

## FIREMEN

## PART I

Article 8

**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.

## PART II

Article 9

**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.

## PART III

Article 10

**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.

## PART IV

Articles 9 and 10

**Fireman's short service or ill-health gratuity**

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

- (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 year's pensionable service, the gratuity shall be of an amount equal to his aggregate contributions.

## PART V

Article 11

**Fireman's injury awards**

1. A gratuity under Article 11 shall be calculated by reference to a 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	Gratuity expressed as % of average annual pensionable pay	Pension expressed as % of average pensionable pay			
		Less than 5 years' service	5 or more but less than 15 years' service	15 or more but less than 25 years' service	25 or more years' service
(1)	(2)	(3)	(4)	(5)	(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 in there mentioned which is reduced in accordance with the provisions of Article 17 or 37 or of Part VIII of Schedule 1 shall be deemed not to have been so reduced.

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 (Northern Ireland) 1966 which relates to the relevant injury together with any supplement payable therewith under section 2 of the National Insurance Act (Northern Ireland) 1966;

(b) any disablement pension payable under section 12 of the National Insurance (Industrial Injuries) Act (Northern Ireland) 1966 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 13(3) 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 19 of the National Insurance Act (Northern Ireland) 1966—

(i) any sickness benefit payable under the said Act together with any increase therein payable under section 40 or 43 of the said Act and any supplement thereto payable under section 2 of the National Insurance (No. 2) Act (Northern Ireland) 1966(s);

(ii) any invalidity pension payable by virtue of the Social Services (Parity) Order (Northern Ireland) 1971(t);

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 (Northern Ireland) 1966 this paragraph shall apply as if he were entitled during the relevant period to a disablement pension under the said Act 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 for the purpose of making the assessment by reference to which the gratuity became payable.

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 October 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 4 of the Firemen's Pension Scheme (Northern Ireland) 1971 (which provisions govern special pensions) or any corresponding provisions of the Belfast Fire Brigade Scheme, whichever are the more favourable in his case when he first becomes entitled to the pension.

## PART VI

## Article 12

### 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 8(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 8, 9, 10 and 12

**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 50(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):—

TABLE

<i>Age in years</i>	<i>Sum to be multiplied</i>
	£
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) The rate of reduction of a pension under this paragraph shall not in any case exceed £51 a year.

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 (Northern Ireland) 1959(u) or of any provision of the National Insurance Act (Northern Ireland) 1966 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) The 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 14, 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.

## PART VIII

Articles 8, 9, 10 and 12

**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 53 or 54 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 53(2)(b) or (4)(a) or Article 54(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 subparagraph (1)(a) or (b) being, where he agreed to the reduction under Article 53(4)(a), pensionable service which he became so entitled to reckon under Article 44 or 45 on or after 1st October 1973.

(3) If the fireman elected to pay additional contributions as mentioned in Article 51 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 the brigade on or after 1st April 1972; except that this paragraph shall not apply in the case of a man to whom Article 53 or 54 applies unless he elected or agreed under Article 53(3)(b) or (4)(b) or 54(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 subparagraph (1), being, where he agreed to the reduction under Article 53(4)(b), pensionable service which he became so entitled to reckon under Article 44 or 45 on or after 1st October 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 72(2) which he is entitled to reckon as pensionable service by virtue of Article 72(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 17 or 37 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 52 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 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

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



## PART IX

## Articles 9 and 10

**Reduction of fireman's gratuity**

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

- (a) a short service gratuity is payable by the Authority on his retirement, or
- (b) an ill-health gratuity is so payable and the 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 Authority under section 59(4) of the National Insurance Act (Northern Ireland) 1966 if the gratuity were a refund of payments to which that subsection applies.

2. Where a payment in lieu of contributions may fall to be made by the Authority in respect of a regular fireman and such a gratuity as is mentioned in paragraph 1 is payable as mentioned therein, the 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 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 18

**Widow's 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 17(6) and 37(6) and in Parts VII and VIII of Schedule 1.

## PART II

## Article 18

**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.

(2) In this Part "pre-1972 pensionable service" means the pensionable service the husband was entitled to reckon otherwise than by virtue of service as a regular fireman on or after 1st April 1972.

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 52(2), 53(2), 54(2) or 55(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 (Northern Ireland) 1971, or any corresponding provisions of the Belfast Fire Brigade Scheme.

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 52(3), 53(3), 54(3) or 55(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 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.

(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 19

**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 the National Insurance (Industrial Injuries) Act (Northern Ireland) 1966 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 (Northern Ireland) 1966 then the amount of her special pension in respect of that week shall be reduced by that excess.

(2) Where the provisions governing the amount of pensions under the National Insurance (Industrial Injuries) Act (Northern Ireland) 1966 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 21

**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 72(2) and the provisions of Article 72(1);
  - (c) if, immediately before he retired, he was paying further contributions under Article 52 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;
  - (d) if he had elected under Article 53 to make 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 51 or 52 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 53 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 3 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 1st February 1971, 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—

- (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.

#### PART V

#### Articles 18, 19 and 21

##### 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.

## PART VI

## Article 22

### 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 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 27

### 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.

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

## Article 29

## PART I

**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.

(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 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 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 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 17(6) and 37(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 October 1973, or
  - (b) at the date of his death where that date is before 1st January 1974,
- and he or, as the case may be, his widow has not exercised the rights of election accorded by Articles 52, 53, 54 and 55 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 service as a regular fireman on or after 1st April 1972.

(3) Where the father'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 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 17(6) or 37(6) or (in the case of an injury pension) under paragraph 3(1) of Part V of Schedule 1.



## PART II

## Article 30

**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 32

**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. 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.

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.

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 72(2) and the provisions of Article 72(1).

(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 12(2), and
- (b) the provisions for the reduction of a pension contained in Articles 17(6) and 37(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.

#### PART IV

Articles 29, 30 and 32

##### **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—

- (a) serving as a regular fireman, nor
- (b) 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.

#### PART V

Article 33

##### **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 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 44 and 45

## 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 80:

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 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 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 44

## 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 44(4) shall be, in respect of each year of pensionable service reckonable under Article 44(4) 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:—

TABLE

<i>Age in years</i>	<i>Amount for £100 of annual pensionable pay</i>
	£
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 65 would have been reduced under paragraphs 3, 4 and 5 of Schedule 7 had the pensionable service reckonable under Article 44(5) been reckonable under Article 44.

## SCHEDULE 6

## ADDITIONAL AND FURTHER PAYMENTS

## PART I

Articles 51 and 52

**Contributions**

1. Where additional pension contributions are payable by a man under Article 51 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 6 to the Firemen's Pension Scheme (Northern Ireland) 1971 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 1st February 1971.

2. Where additional pension contributions are payable by a man in pursuance of an election under Article 52(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 October 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 52(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 October 1973 otherwise than by virtue of service as a regular fireman on or after 1st April 1972.

TABLE

<i>Completed years of pensionable service taken into account</i>	<i>Rate expressed as a percentage of pensionable pay</i>	
	<i>Additional contributions</i>	<i>Further contributions</i>
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 53

**Lump sums**

1. Where a payment by way of a lump sum is payable by a man in pursuance of an election under Article 53(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.

2. Where an additional payment by way of a lump sum is payable by a man in pursuance of an election under Article 53(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 October 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 Article 53(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 October 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 7

## Article 65

**Transfer Values**

1.—(1) The sum to be paid by the Authority under Article 65 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.

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 the Authority under Article 65, calculated in accordance with the preceding provisions of this Schedule, shall be reduced by the amount he has, under Article 44(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 the Authority under Article 65, 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 the Authority, by virtue of a participating period of relevant employment, the sum to be paid under Article 65, 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, 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

<i>Age in years</i>	<i>Amount of the reduction in respect of each £1 by which the annual value of a pension would be reduced</i>
	£
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

## SCHEDULE 8

## Article 1

## MODIFIED SCHEME

1. Any regular fireman to whom the Firemen's Pension Scheme (Northern Ireland) 1973 does not apply by virtue of Article 1(2)(c) and who—

(a) retires from the force and is entitled to reckon 25 years' pensionable service,  
or

(b) not being entitled to reckon 25 years' pensionable service retires from the force on the ground that he is permanently disabled,

shall subject to the provisions of paragraph 2 be entitled to a pension calculated as follows:—

For each completed year of pensionable service up to twenty	One-sixtieth of his pensionable pay at the date of his retirement.
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For each completed year of pensionable service after twenty	two-sixtieths of his pensionable pay at the date of his retirement.
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Provided that in no case shall a pension be granted of a greater amount than forty-sixtieths of his pensionable pay at the date of his retirement.

2. A pension shall not be granted under the provisions of paragraph (1)(a) where a regular fireman retires without the prior consent in writing of the Authority before he has attained the age of sixty, unless—

(a) he is required to retire by virtue of any provisions for the time being in force relating to compulsory retirement on grounds of age, or

(b) he is required to retire as an alternative to dismissal.

## APPENDIX 3

## Article 4

## TRANSITORY PROVISIONS

*Interpretation*

1.—(1) In this Appendix references to a previous Scheme and to the Scheme of 1973 are, respectively, references to the Firemen's Pension Scheme (Northern Ireland) 1971 and any Scheme for the time being in force maintained under section 26(3) of the Fire Services Act (Northern Ireland) 1969 and to the Firemen's Pension Scheme (Northern Ireland) 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 October 1973.

(2) Where a regular fireman to whom this paragraph applies has given notice of commutation under the provisions of a previous Scheme (in this paragraph referred to as the "original notice") he may give further notice to the 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 37, of the Scheme of 1973 as (subject to the limitation contained in Article 38 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 17 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 October 1973.

(2) Where a regular fireman to whom this paragraph applies has given notice of surrender under the provisions of a previous Scheme (in this paragraph referred to as the "original notice") he may give further notice to the 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 17 and 37 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 37 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 37(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 54(3), Article 55(3) or Article 56(3) of the Scheme of 1973.

(2) Where a regular fireman to whom this paragraph applies has given notice of surrender under the provisions of a previous Scheme (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 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 37 of the Scheme of 1973.

*Provisions supplemental to paragraphs 2, 3 and 4*

5. Notice to the Authority under any of the preceding paragraphs shall be given in writing to the Authority before 1st January 1974.

*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 68(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".

## EXPLANATORY NOTE

*(This note is not part of the Order, but is intended to indicate its general purport.)*

This Order, which has effect as from 1st April 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 (Northern Ireland) 1971 in the case of firemen with service on or after 1st April 1972. It has effect subject to the transitory provisions contained in Appendix 3. The main differences between the Scheme of 1973 and previous Schemes 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 9 and 10). 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 previous Schemes) but also to a gratuity (Article 11). 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 12).

Widow's 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 19(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 21 and 32).

Where a fireman dies as a result of an injury received in the execution of duty, the Authority may, in their discretion, grant a special pension to an adult relative who was substantially dependent on him (Article 27).

Awards are normally calculated on pensionable pay averaged over the last year, instead of the last 3 years, of service (Article 49).

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 52 to 56 enable a person to elect to make these equivalent payments.