
STATUTORY RULES OF NORTHERN IRELAND

2006 No. 210

FIRE SERVICES

SUPERANNUATION

The Firemen's Pension Scheme Order (Northern Ireland) 2006

Made - - - - *8th May 2006*

Coming into force - - *1st April 2006*

The Department of Health, Social Services and Public Safety, in exercise of the powers conferred on it by Article 10(1), (3), (4) and (5) of the Fire Services (Northern Ireland) Order 1984⁽¹⁾ and now vested in it⁽²⁾ and of every other power enabling it in that behalf and with the approval of the Department of Finance and Personnel⁽³⁾, in accordance with Article 10(1) of that Order, hereby makes the following Order:

Citation commencement and revocations

- 1.—(1) This Order may be cited as the Firemen's Pension Scheme Order (Northern Ireland) 2006.
- (2) This Order shall come into operation on 1st April 2006, except that the amendments that relate to, or are incidental to—
- (a) article 28 shall have effect from 6th April 1997;
 - (b) articles 32 and 33 shall have effect from 1st April 1972;
 - (c) articles 55 and, 67 in so far as they relate to maternity leave, shall have effect from 23rd June 1994;
 - (d) articles 55 and, 67 in so far as they relate to adoption or paternity leave, shall have effect from 8th December 2002; and
 - (e) article 80 shall have effect from 1st April 1972.
- (3) The Orders specified in Schedule 13 are revoked to the extent specified.

The Scheme

2. The Scheme set out in the Annex shall have effect.

(1) [S.I. 1984/1821 \(N.I. 11\)](#); see Article 2(2) for the definition of "the Department"; Article 10(5) was amended by [S.I. 1998/1549 \(N.I. 11\)](#), Article 4

(2) See [S.R. 1999 No. 481](#) Schedule 4, Part III

(3) Formerly the Department of Finance. See [S.I. 1982/338 \(N.I. 6\)](#) Article 3

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Sealed with the Official Seal of the Department of Health, Social Services and Public Safety on
8th May 2006

L.S.

8th May 2006

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

ANNEX 1

The Firemen's Pension Scheme (Northern Ireland) 2006

1. The following Scheme shall have effect.

“PART A

GENERAL PROVISIONS AND RETIREMENT

Interpretation

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

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

Exclusive application to regular firemen

2.—(1) Subject to paragraphs (3) and (4) and articles 91 and 92, this Scheme applies in relation to regular firemen and their spouses or civil partners and dependants to the exclusion of pension provision under any enactment other than Article 10 of the principal Order and the Pension Schemes (Northern Ireland) Act 1993(4).

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

(3) A person who is not a member of the brigade but whose employment is, under article 3 or 4, treated for the purposes of this Scheme as employment as a regular fireman is not a regular fireman for the purposes of this article.

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

Application to temporary employment connected with fire services

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

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

- (a) as an instructor at the central training institution or any training centre maintained by the Secretary of State; or
- (b) as an inspector appointed under Article 50 of the principal Order or under section 24 of the Fire Services Act 1947(5); or
- (c) in pursuance of arrangements made by the Secretary of State in connection with the training in firefighting of members of the armed forces of the Crown; or

(4) 1993 c. 49

(5) 1947 c. 41

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- (d) in pursuance of arrangements made by the Secretary of State, or made after 31st March 1968 in connection with the training and organisation of fire-fighting forces in any country or territory outside the United Kingdom.

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

- (a) he were, and his duties were duties as, a regular fireman;
- (b) his pay and rank were the same as they would have been had he not ceased to perform duties as a regular fireman;
- (c) any reference to the brigade were a reference to the relevant employment;
- (d) articles 12 and 13 were omitted; and
- (e) any reference to the Authority were a reference to the Secretary of State.

Application to permanent employment as instructor

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

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

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

- (a) he were, and his duties were duties as, a regular fireman;
- (b) any reference to the brigade were a reference to the relevant employment;
- (c) any reference to the Authority were a reference to the Secretary of State; and
- (d) articles 12 and 13 were omitted.

Reckoning of service for purposes of awards

5.—(1) For the purpose of calculating an award payable to or in respect of a member of the fire brigade by reference to any period in years (including a period of pensionable or other service) the period shall be reckoned as $(A + B \text{ years})/365$; where A is the number of completed years in the period, and B is the number of completed days in any remaining part of a year; and accordingly a part of a year which includes 29th February in a leap year and comprises 366 days, shall be treated as a whole year.

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

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

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

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

(4) Subject to article 27 and Part IV of Schedule 2, any period of service as a part-time member of the fire brigade shall be treated as service as a whole-time member of the fire brigade when calculating a person's pensionable service.

Aggregate pension contributions for purposes of awards

6.—(1) A regular fireman's aggregate pension contributions comprise—

- (a) all payments made by him to the Authority that fall within paragraph (2);
- (b) all contributions made by him in accordance with an election under article 67 (optional pension contributions during maternity and adoption leave),
- (c) all payments made by him in accordance with an election under article 71 (election to purchase increased benefits); and
- (d) if paragraph (3) applies, the amount of the notional award described in paragraph (4).

(2) The payments falling within this paragraph are payments under this Scheme or a previous Scheme that relate to a period of service which the regular fireman is, or was immediately before electing under article 68 not to pay pension contributions, entitled to reckon as pensionable service and have not been refunded to him, including payments made—

- (a) by way of rateable deductions from pay;
- (b) by way of such additional and further payments as were mentioned in Articles 51 to 53 of the 1973 Scheme; or
- (c) in accordance with such an undertaking as is mentioned in Part I of Schedule 6.

(3) This paragraph applies where the regular fireman is, or was immediately before electing under article 68 not to pay pension contributions, entitled to reckon pensionable service by reason of a period of service or employment otherwise than as a regular fireman ("the previous employment period").

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

Qualifying injury

7.—(1) Except in articles 92 and 102, references in this Scheme to a qualifying injury are references to an injury received by a person without his own default in the execution of his duties as a regular fireman.

(2) In articles 92 and 102, references to a qualifying injury are references to an injury received by a person without his own default in the exercise of his duties as a retained or volunteer member of the fire brigade.

(3) An injury shall be treated as having been received by a person without his default unless the injury is wholly or mainly due to his own serious and culpable negligence or misconduct.

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Disablement

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

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

(3) Subject to paragraph (4), disablement means incapacity, occasioned by infirmity of mind or body, for the performance of duty, except that in relation to a child it means incapacity, so occasioned, to earn a living.

(4) Where it is necessary to determine the degree of a person's disablement, it shall be determined by reference to the degree to which his earning capacity has been affected as a result of a qualifying injury; if, as a result of such an injury, he is receiving in-patient treatment at a hospital he shall be treated as being totally disabled.

(5) 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.

Death or infirmity resulting from injury

9.—(1) A person shall be taken to have died from the effects of an injury if it appears that had he not suffered that injury he would not have died when he did.

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

Relevant service in the armed forces

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

- (a) service specified in Schedule 1 to the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951⁽⁶⁾ ("the 1951 Act"), other than service specified in paragraph 5(b) of that Schedule;
- (b) part-time service under the National Service Act 1948⁽⁷⁾, otherwise than pursuant to a training notice under that Act; and
- (c) service for the purposes of training only performed by a person mentioned in paragraph 7 of Schedule 1 to the 1951 Act for a period shorter than 7 days.

Normal pension age

11. The normal pension age of employees of the Authority appointed on terms under which they are or may be required to engage in fire-fighting is 55.

Compulsory retirement on grounds of efficiency

12. A regular fireman who—

- (a) has attained the age of 50; and
- (b) has, or but for an election under article 68 or a failure to make election under article 67 would have, completed 25 years' pensionable service,

⁽⁶⁾ 1951 c. 65

⁽⁷⁾ 1948 c. 64

may be required by the Authority to retire on the grounds that his retention in the brigade would not be in the general interests of its efficiency.

Compulsory retirement on grounds of disablement

13.—(1) Subject to paragraph (2), a regular fireman may be required by the Authority to retire on the date on which the Authority determines that he ought to retire on the ground that he is permanently disabled.

(2) A retirement under this article is void if, on an appeal against the medical opinion on which the Authority acted in determining that he ought to retire, the independent medical referee appointed under Schedule 9 decides that the appellant is not permanently disabled.

Effective date of retirement

14. For the purposes of this Scheme a member of the fire brigade shall be taken to retire immediately after his last day of service.

PART B

PERSONAL AWARDS

Ordinary pension

15.—(1) Subject to paragraph (2), this article applies to a regular fireman who retires if he then—

- (a) has attained the age of 50; and
- (b) he is entitled to reckon at least 25 years' pensionable service; and
- (c) does not become entitled to an ill-health award under article 17.

(2) This article does not apply—

- (a) to a chief fire officer who retires before attaining the age of 55, unless his notice of retirement was given with the permission of the Authority; or
- (b) where immediately before the person's retirement an election under article 68 not to pay pension contributions had effect.

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

Short service award

16.—(1) This article applies, unless immediately before his retirement an election under article 68 not to pay pension contributions had effect, to a regular fireman who—

- (a) retires on or after attaining the age of 65,
- (b) is entitled to reckon at least 2 years' pensionable service, and
- (c) is not entitled to any other pension or gratuity under this Part.

(2) A person to whom this article applies becomes entitled on retiring—

- (a) if he is entitled to reckon at least 2 years' pensionable service, to a short service pension calculated in accordance with Part II of Schedule 2; and
- (b) in any other case, to a short service gratuity calculated in accordance with Part V of Schedule 2.

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Ill-health award

17.—(1) This article applies, unless immediately before his retirement an election under article 68 not to pay pension contributions had effect, to a regular fireman who is required to retire under article 13 (compulsory retirement on grounds of disablement).

- (2) A person to whom this article applies becomes entitled on retiring—
- (a) if he is entitled to reckon at least 2 years' pensionable service or the infirmity was occasioned by a qualifying injury, to an ill-health pension calculated in accordance with Part III of Schedule 2; and
 - (b) in any other case, to an ill-health gratuity calculated in accordance with Part V of Schedule 2.

Injury award

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

- (2) A person to whom this article applies is entitled—
- (a) to a gratuity; and
 - (b) subject to paragraphs (3) and (4), to an injury pension,
- both calculated in accordance with Part VI of Schedule 2.
- (3) Payment of an injury pension is subject to paragraph 4 of Part VI of Schedule 2.
- (4) Where the person retired before becoming permanently disabled, no payment in respect of an injury pension shall be made for the period before he became permanently disabled.

Deferred pension

19.—(1) This article applies to a regular fireman who is entitled to reckon at least 2 years' pensionable service or, though not so entitled—

- (a) has an earlier period of service as a regular fireman which, disregarding breaks in service of not more than a month, is continuous and which, after deducting from it
 - (i) any period during which an election under article 68 not to pay pension contributions had effect, and
 - (ii) any period of maternity or adoption leave which does not count as pensionable service as a result of article 55 or article 67and aggregating the remainder with his pensionable service, amounts to 2 years or more; or
 - (b) is entitled to reckon pensionable service by virtue both of service as a regular fireman and of a period of other employment which together amount to 2 years or more.
- (2) If a person to whom this article applies ceases to be a member of the fire brigade, or elects under article 68 not to pay pension contributions, in circumstances in which—
- (a) no transfer value or cash equivalent is payable in respect of him; and
 - (b) he does not become entitled to any award under articles 15 to 18,
- he becomes entitled to a deferred pension calculated in accordance with Part VII of Schedule 2.
- (3) If—

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- (a) a person to whom, when he was a regular fireman, this article applied has been awarded an ill-health pension under article 17; and
- (b) the unsecured portion of that pension is terminated under article 94(3) otherwise than on his rejoining the fire brigade,

he becomes entitled to a deferred pension calculated in accordance with Part VII of Schedule 2.

(4) A deferred pension becomes payable—

- (a) from the 60th birthday of the person entitled to it; or
- (b) from any earlier date on which he becomes permanently disabled for engaging in firefighting or performing any other duties appropriate to his former role as a fireman, and no payment in respect of the pension shall be made for any earlier period.

(5) A person who under article 57(7)(b) relinquishes his entitlement to a deferred pension ceases to be entitled to it.

Repayment of aggregate pension contributions

20.—(1) This article applies to a regular fireman who ceases to be a member of the fire brigade, or elects under article 68 not to pay pension contributions, in circumstances in which—

- (a) no transfer value or cash equivalent is payable in respect of him; and
- (b) he does not become entitled to any award under articles 15 to 18 or article 89.

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

Commutation — general provision

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

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

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

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

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

- (a) when the person retires he is entitled to reckon at least 30 years' pensionable service; or
- (b) he retires at normal pension age (see article 11 (normal pension age));

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

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

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(7) In order to commute a portion of a pension a person must, not earlier than 4 months before his intended retirement nor later than 6 months after his retirement, give the Authority written notice of commutation specifying the portion.

(8) Notice of commutation takes effect from the later of—

- (a) the date on which it is received by the Authority; and
- (b) the date of the person's retirement,

except that it does not take effect if it was given more than 4 months before retirement or relates to an ill-health pension the unsecured portion of which has already been terminated under article 94(3).

(9) When a person's notice of commutation takes effect the Authority shall—

- (a) reduce the pension, as from the effective date, by the commuted portion; and
- (b) pay him the lump sum, reduced, where the effective date is the date of receipt of the notice, by the difference between the aggregate payments made in respect of the pension and the aggregate payments that would have been made in respect of it if it had been reduced from the date of retirement.

(10) Where notice of commutation relating to an ill-health pension has taken effect and the unsecured portion of the pension is terminated under article 94(3)—

- (a) no reduction shall be made under paragraph (9) in the secured portion of the ill-health pension, insofar as it is payable under article 94(5); but
- (b) if the person later becomes entitled to another pension, other than an injury pension, for the purposes of which he is entitled to reckon the period of pensionable service that was reckonable for the purposes of the ill-health pension, the unsecured portion of the other pension shall be reduced by the amount by which the ill-health pension would have been reduced if its unsecured portion had not been terminated,

and where sub-paragraph (b) applies and notice of commutation is given in respect of the other pension, the portion of it that may be commuted is reduced by the amount of the reduction under sub-paragraph (b).

(11) For the purposes of this article no account shall be taken of any increase under article 79(3) or 81 in an award to a serviceman.

Commutation – small pensions

22.—(1) Where the amount of any pension payable under this Part to a person who has attained state pensionable age, together with any pension to which he is entitled under article 85 and any increase under the Pensions (Increase) Act (Northern Ireland) 1971⁽⁸⁾, does not exceed £260, the Authority may commute the pension for a gratuity.

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

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

Allocation

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

(8) 1971 c. 35(N.I)

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

- (a) his spouse or civil partner; or
- (b) some other person who the Authority is satisfied is substantially dependent on him.

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

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

(4) A person who—

- (a) has allocated a portion of any pension to which this article applies; and
- (b) proposes to marry or form a civil partnership or re-marry or form a subsequent civil partnership; and
- (c) has not attained the age of 70,

may allocate a further portion of the pension in favour of his spouse or civil partner by that marriage or civil partnership.

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

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

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

and must have satisfied the Authority of his good health.

(7) A person's notice of allocation, which may be sent by post, must be given—

- (a) if he is in receipt of a pension and has not attained the age of 70 and proposes to marry or form a civil partnership or remarry or form a subsequent civil partnership, and the beneficiary is his spouse or civil partner by that marriage or civil partnership, before but not earlier than 2 months before his intended marriage or formation of a civil partnership;
- (b) if the pension is a deferred pension, before but not earlier than 2 months before the pension comes into payment; or
- (c) in any other case, before but not earlier than 2 months before his intended retirement.

(8) Where a person has complied with paragraphs (6) and (7) the Authority shall forthwith notify him in writing that it has accepted the notice of allocation.

(9) Where the notice of allocation has been accepted and paragraph (7) applies, the notice—

- (a) takes effect only if the relevant event occurs within 2 months of its being given; and
- (b) if it takes effect, does so as from the date of the relevant event.

(10) Where paragraph (7)(a) applies the relevant event is the marriage or civil partnership, where paragraph (7)(b) applies it is the coming into payment of the pension, and where paragraph (7)(c) applies it is the person's retirement.

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

- (a) the date from which the pension is payable; and
- (b) the date on which the notice took effect,

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

(12) Where the beneficiary dies after a pension, which has been reduced under paragraph (11), becomes payable, that reduction shall cease from the date of the beneficiary's death.

(13) The actuarial equivalent shall be calculated from tables prepared by the Government Actuary and in force at the time when the notice took effect, which shall take account of the ages of the pensioner and the beneficiary at that time and separate calculations shall be made in respect of separate allocations.

(14) For the purposes of this article no account shall be taken of any increase under article 79(3) or 81 in an award to a serviceman.

Limitation of commuted or allocated portion of pension

24. A person may not commute under article 21 or allocate under article 23—

- (a) so much of any pension that it becomes payable at a rate less than two thirds of the rate at which it would have been payable but for those articles and Parts VIII and IX of Schedule 2; or
- (b) in the case of a deferred pension in relation to which, when it becomes payable, he has a guaranteed minimum, so much of the pension that its weekly amount, including any increase under the Pensions (Increase) Act (Northern Ireland) 1971, is then less than the guaranteed minimum.
- (c) For the purposes of this article no account shall be taken of any increase under article 79(3) or 81 in an award to a serviceman.

Deduction of tax from certain awards

25. The Authority may deduct from any payment which is chargeable to tax under section 598 of the Income and Corporation Taxes Act 1988⁽⁹⁾ (repayment of employee's contributions) the amount of tax charged.

Pension debit members

26. Where a pension debit member is entitled to an award under article 15, 16, 17 or 19—

- (a) the award is calculated by reference to the member's rights under this Scheme as reduced by virtue of Article 28 of the 1999 Order and in accordance with such tables and other guidance as are provided for the purpose by the Government Actuary, and
- (b) articles 21 to 24 have effect accordingly.

(9) 1988 c. 1

Part-time members

27. Where a person is entitled to an award under this Part and some or all of his service, by virtue of which his pensionable service is reckonable, was part-time service, his award shall be calculated in accordance with Part IV of Schedule 2.

PART C

AWARDS ON DEATH — SPOUSES OR CIVIL PARTNERS

Spouse's or civil partner's ordinary pension

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

- (a) while serving as a regular fireman unless an election under article 68 not to pay pension contributions had effect at the time of his death; or
- (b) while in receipt of an ordinary, short service or ill-health pension; or
- (c) while in receipt of an injury pension, if he has been but no longer is in receipt both of that pension and of an ill-health pension; or
- (d) in consequence of an injury on account of which he retired from service as a regular fireman with an ill-health gratuity, if he has not since had any period of such service.

(2) Where this article applies the surviving spouse or civil partner is, subject to paragraph (4), entitled to an ordinary pension calculated, subject to Part I of Schedule 11 (Spouse's or civil partner's awards), in accordance with Part I of Schedule 3.

(3) Subject to paragraph (4), the surviving civil partner is entitled to an ordinary pension of such amount as bears to the ordinary pension to which he would have been entitled had he been the deceased's surviving spouse (calculated in accordance with Part I of Schedule 3), the same proportion that the deceased's service after 5th April 1988 bears to the whole of his pensionable service.

(4) Where the deceased died while serving as a regular fireman the surviving spouse or civil partner may, by giving notice to the Authority within 3 months after the date of the death, elect to have, instead of an ordinary pension, a reduced pension and a gratuity.

(5) The amount of the reduced pension is 75% of that of the ordinary pension which would otherwise have been payable.

(6) The amount of the gratuity is the greater of—

- (a) 6 times the amount of the reduced pension; and
- (b) the deceased's average pensionable pay,

but if the surviving spouse or civil partner has received any pension payments at a rate higher than that of the reduced pension the Authority shall recover the overpayment by reducing the gratuity.

(7) The Authority may in its discretion accept a notice of election under paragraph (4) given more than 3 months after the date of the death.

Spouse's or civil partner's special award

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

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- (a) of a qualifying injury; or
 - (b) of infirmity of mind or body occasioned by a qualifying injury,
- leaving a surviving spouse or civil partner.
- (2) Where this article applies the surviving spouse or civil partner is entitled—
 - (a) to a special pension calculated in accordance with Part II of Schedule 3; and
 - (b) subject to paragraph (5), to a gratuity.
 - (3) Where the deceased died while serving as a regular fireman the amount of the gratuity is the total of 25% of his average pensionable pay and the greater of—
 - (a) his average pensionable pay; and
 - (b) two and a quarter times the amount of the pension that would have been payable under article 17 if on the date of his death he had retired on the ground of permanent disablement.
 - (4) In any other case the amount of the gratuity is 25% of the deceased's average pensionable pay.
 - (5) Where the deceased was entitled to an injury gratuity under article 18—
 - (a) if it was of the same or a larger amount, no gratuity is payable under this article; and
 - (b) if it was of a smaller amount, the gratuity under this article shall be reduced by that amount.

Spouse's or civil partner's augmented award

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

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

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

- (2) The conditions are—
 - (a) that the injury was received in the execution of duties performed, in circumstances in which there was an intrinsic likelihood of his receiving a fatal injury, for the immediate purpose of saving the life of another person or of preventing loss of human life; or
 - (b) that the Authority is of the opinion that the preceding condition may be satisfied and that this article should apply; or
 - (c) that the Authority is of the opinion that the injury was received in such circumstances that it would be inequitable if this article were not to apply.
- (3) Where this article applies, article 29 applies with the modifications set out in paragraphs (4) and (5).
- (4) For the purpose of calculating the special pension, Part II of Schedule 3 has effect with the substitution for "45%" of "50%".
- (5) Unless they produce a more favourable result, paragraphs (3) to (5) of article 29 do not apply, and the amount of the gratuity is twice the annual pensionable pay, at the date of the death, of a regular fireman holding the rank of fireman and entitled to reckon 30 years' service for the purposes of pay.

Spouse's or civil partner's accrued pension

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

(2) For the purposes of paragraph (1) a person shall be treated as entitled to a deferred pension if he would have been entitled to one but for its commutation under article 22.

(3) Where this article applies the surviving spouse or civil partner is entitled to an accrued pension calculated in accordance with Part III of Schedule 3.

Limitation award to surviving spouse or civil partner with reference to date of marriage or civil partnership

32.—(1) A surviving spouse or civil partner is not entitled to an ordinary pension under article 28, a special award under article 29, an augmented award under article 30 or an accrued pension under article 31 unless that person was married to, or had formed a civil partnership with, the deceased during a period before the deceased last ceased to be a regular fireman.

(2) A surviving spouse or civil partner who but for paragraph (1) would be entitled to a pension or other award mentioned in that paragraph is instead entitled to a pension calculated in accordance with Part IV of Schedule 3.

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

Surviving spouse's or civil partner's requisite benefit and temporary pension

33.—(1) This article applies where—

- (a) a person entitled to reckon less than 2 years' pensionable service who is or has been a regular fireman and by whom pension contributions have at any time been payable under article 66 dies, leaving a surviving spouse or civil partner, after the beginning of the tax year in which he attained or would have attained state pensionable age; and

- (b) neither article 28 nor article 30 applies.

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

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

(3) The weekly amount of the temporary pension is $A - B$ where:

A is the weekly amount, immediately before he died, of the deceased's pensionable pay or, as the case may be, his pension or pensions (including any increase under the Pensions (Increase) Act (Northern Ireland) 1971⁽¹⁰⁾); and

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

(4) The requisite benefit pension shall be calculated in accordance with Part V of Schedule 3.

(5) If—

- (a) the deceased died while serving as a regular fireman; and

(10) 1971 c. 35(N.I.)

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(b) the amount of the capitalised value of the requisite benefit pension, as calculated by the Government Actuary, is less than that of his average pensionable pay, the surviving spouse or civil partner is entitled to a gratuity equal to the difference between those amounts.

Surviving spouse's or civil partner's award where no other award payable

34.—(1) This article applies where a person by whom pension contributions have at any time been payable under article 66 dies while serving as a regular fireman—

- (a) in the case of a man, before the end of the tax year preceding that in which he would have attained state pensionable age; or
- (b) in the case of a woman, at any time,

leaving a surviving spouse or civil partner, and neither article 28 nor 29 nor 30 applies.

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

- (a) in respect of the first 13 weeks following the death, to a temporary pension calculated as if article 33(2)(a) and (3) had applied; and
- (b) to a gratuity of an amount equal to the deceased's average pensionable pay.

Limitation where spouses or civil partners living apart

35.—(1) A surviving spouse or civil partner at the time of the death was living apart from the deceased is not entitled to any award under articles 28 to 34.

(2) Except where paragraph (3) applies, a surviving spouse or civil partner who but for paragraph (1) would be entitled to an award under article 28, 29, 30 or 31 is entitled instead to a requisite benefit pension calculated in accordance with Part V of Schedule 3.

(3) Where—

- (a) the surviving spouse or civil partner would but for paragraph (1) be entitled to an award under article 28, 29, 30 or 31; and
- (b) at the time of the death the deceased was making relevant contributions, or was liable to do so by virtue of an agreement or of an order or decree of a competent court,

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

(4) Relevant contributions are contributions paid or payable—

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

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

(5) The appropriate amount is the lesser of—

- (a) the amount of a pension calculated in accordance with, as the case may be, article 28, 29, 30 or 31; and
- (b) the amount of the relevant contributions.

(6) The Authority may determine that, for such period as it thinks fit, a pension under paragraph (2) or (3) shall be paid at an increased rate, not exceeding that of the pension which would have been payable but for paragraph (1).

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

Effect of remarriage or subsequent civil partnership

36.—(1) A person entitled to a pension under this Part who remarries or forms a subsequent civil partnership is not entitled to receive any payment on account of the pension in respect of any subsequent period; but if the marriage or civil partnership is dissolved or the other party dies the Authority may pay the whole or any part of the pension for such period after the dissolution or death.

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

Pension debit members

37.—(1) Where a pension debit member dies leaving a surviving spouse or civil partner, any award under article 28, 31, 32, 33, 34 or 35, and the pension under any of those articles by reference to which any payment under article 36 is made, is calculated by reference to the member’s rights under this Scheme as reduced by virtue of Article 28 of the 1999 Order and in accordance with such tables and other guidance as are provided for the purpose by the Government Actuary.

PART D

AWARDS ON DEATH — CHILDREN

Child’s ordinary allowance

38.—(1) This article applies where a person dies, leaving a child—

- (a) while serving as a regular fireman unless an election under article 68 not to pay pension contributions had effect at the time of his death; or
- (b) while in receipt of an ordinary, short service or ill-health pension; or
- (c) while in receipt of an injury pension, if he has been but no longer is in receipt both of that pension and of an ill-health pension; or
- (d) in consequence of an injury on account of which he retired from service as a regular fireman with an ill-health gratuity, if he has not since had any period of such service.

(2) Subject to article 42, where this article applies the child is entitled to an ordinary allowance calculated, subject to Part II of Schedule 11 (children’s awards), in accordance with Part I of Schedule 4.

Child’s special allowance

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

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

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leaving a child.

(2) Subject to article 42, where this article applies the child is entitled to a child's special allowance calculated in accordance with Part II of Schedule 4.

Child's special gratuity

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

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

leaving a child but not leaving a surviving spouse or civil partner entitled to a gratuity under article 29, and one of the conditions in article 30(2) is satisfied.

(2) Subject to article 42, where this article applies the child is entitled to a gratuity in addition to a child's special allowance.

(3) Where only one child is entitled to a gratuity, its amount is that specified in article 30(5) ("the full amount"); where two or more children are entitled, the amount of each gratuity is the full amount divided by the number of children entitled.

Child's accrued allowance

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

(2) Subject to article 42 where this article applies the child is entitled to an accrued allowance calculated in accordance with Part III of Schedule 4.

Child's allowance or special gratuity — limitations

42.—(1) No allowance or gratuity under this Part shall be paid—

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

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

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

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

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

- (3) No allowance under this Part shall be paid in respect of a person who has attained the age of 17 unless—
- (a) he is permanently disabled and one of the conditions in paragraph (4) is satisfied; or
 - (b) he is undergoing full-time education or full-time vocational training and either he has not attained the age of 19 or the condition in paragraph (5) is satisfied.
- (4) The conditions mentioned in paragraph (3)(a) are—
- (a) that he was both permanently disabled and substantially dependent on the deceased at the time of the death; or
 - (b) that he became permanently disabled while in receipt of an allowance under this Part; or
 - (c) that the Authority, having regard to all the circumstances, in its discretion determines to pay an allowance to him.
- (5) The condition mentioned in paragraph (3)(b) is that he was undergoing full-time education or full-time vocational training immediately before his 19th birthday and either—
- (a) he has since continued to do so without any period of interruption; or
 - (b) the Authority, having regard to all the circumstances, in its discretion determines to pay an allowance to him notwithstanding any period of interruption.
- (6) Part IV of Schedule 4 has effect for the reduction, in certain circumstances, of allowances under this Part.
- (7) No special gratuity under article 40 shall be paid in respect of a person who attained the age of 17 before the date of the death unless at the date he was—
- (a) undergoing full-time education or full-time vocational training; or
 - (b) both permanently disabled and substantially dependent on the deceased.

Pension debit members

43.—(1) Where a pension debit member dies leaving a child, the reduction in his rights under this Scheme by virtue of Article 28 of the 1999 Order is disregarded for the purposes of calculating any award payable under this Part.

PART E

AWARDS ON DEATH — ADDITIONAL PROVISIONS

Lump sum death grant

44.—(1) On the death of a person while serving as a regular fireman a lump sum death grant becomes payable unless an election under article 68 not to pay pension contributions had effect at the time of death.

(2) The grant is payable whether or not any pension or gratuity is payable under Part C.

(3) The amount of the grant is twice that of the deceased's pensionable pay, expressed as an annual rate—

- (a) at the time of the death; or
- (b) if he was then absent from duty without pay, immediately before that absence began.

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- (4) The grant is to be paid—
 - (a) to any surviving spouse or civil partner who qualifies for it; or
 - (b) if there is no such surviving spouse or civil partner, to the personal representatives.
- (5) A surviving spouse or civil partner who qualifies for the grant is one who was not living apart from the deceased at the time of the death.

Adult dependent relative's special pension

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

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

and there is an adult dependent relative.

(2) An adult dependent relative is—

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

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

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

(4) A special pension under this article—

- (a) shall be calculated in accordance with Schedule 5; and
- (b) is payable for such period or periods as the Authority may from time to time determine.

Dependent relative's gratuity

46.—(1) This article applies where a person dies—

- (a) while serving as a regular fireman; or
- (b) while in receipt of a pension other than a deferred pension,

and there is a dependent relative.

(2) A relative is a person who is, or is a child of, a surviving spouse or civil partner, or a parent, grandparent or child of the deceased, and a dependent relative is any relative who—

- (a) was substantially dependent on the deceased immediately before his death; and
- (b) is not entitled to any award under this Scheme.

(3) If the Authority thinks fit, it may grant a gratuity to a dependent relative, but the aggregate of all gratuities granted under this article in respect of the death shall not exceed the amount of the deceased's aggregate pension contributions.

Payment of balance of contributions to estate

47.—(1) This article applies where a person dies—

- (a) while in receipt of an ordinary, short service or ill-health pension; or

- (b) while entitled to a deferred pension; or
- (c) while serving as a regular fireman,

and the aggregate of the relevant amounts is less than the amount of his aggregate pension contributions.

- (2) Where paragraph (1)(a) or (b) applies, the relevant amounts are—
 - (a) the sums paid in respect of the pension mentioned in paragraph (1) (“the pension”);
 - (b) if the pension was an ill-health pension and the deceased was also in receipt of an injury pension, the sums paid by way of pension and gratuity under article 18;
 - (c) if the pension was reduced under article 21 (commutation – general provisions), the lump sum paid under that article;
 - (d) if the pension was reduced under article 23 (allocation), the sums that would otherwise have been paid in respect of the allocated portion;
 - (e) any gratuity payable in respect of the death; and
 - (f) the actuarial value, as calculated in accordance with guidance provided for the purpose by the Government Actuary of
 - (i) any surviving spouse’s or civil partner’s pension or child’s allowance payable in respect of the death, and
 - (ii) if the deceased member was a pension debit member, any pension credit member’s pension deriving from the deceased member’s rights.

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

(4) The Authority shall pay the difference between the aggregate of the relevant amounts and the deceased’s aggregate pension contributions to his personal representatives.

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

48.—(1) Where the amount of any pension payable under Part C, together with any increase under the Pensions (Increase) Act (Northern Ireland) 1971, does not exceed £260, or any greater amount prescribed by regulations for the time being in force under section 8C of the Pension Schemes (Northern Ireland) Act 1993⁽¹¹⁾, the Authority may commute the pension for a gratuity.

- (2) Where—
 - (a) a surviving spouse or civil partner is entitled to a pension under article 28 or 29, and
 - (b) the Authority is satisfied that there are sufficient reasons; and
 - (c) the surviving spouse or civil partner consents,

the Authority may commute for a gratuity the pension or so much of it as may be commuted without contravening article 50.

(3) The Authority may under this article commute a pension for a gratuity only when the pension first becomes payable.

(4) A gratuity under this article shall be calculated in accordance with such guidance as is provided for the purpose by the Government Actuary.

(11) 1993 c. 49. Section 8C was inserted by the Pensions (Northern Ireland) Order 1995 S.I. 1995/3213 (NI 22), Article 133(5).

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Gratuity in lieu of child's allowance

49.—(1) Subject to article 50, where—

- (a) a child is entitled to an allowance under Part D; and
- (b) the Authority is satisfied that there are sufficient reasons; and
- (c) a surviving parent or the child's guardian or, if he has neither, the child himself consents,

the Authority may commute for a gratuity the allowance or so much of it as may be commuted without contravening article 50.

(2) A gratuity under this article shall be calculated in accordance with such guidance as is provided for the purpose by the Government Actuary.

Limitation on discretion to commute pension or allowance for gratuity

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

(2) The Authority may not under article 48 or 49 commute the whole or a part of any pension or allowance for a gratuity the actuarial value of which exceeds the permitted amount.

(3) The permitted amount is $A - B - C$, where—

- A is a quarter of the actuarial value of the principal pension, disregarding any reduction under article 21 (commutation – general provisions),
- B is the actuarial value of any other gratuity under article 48 or 49, and
- C is the actuarial value of any lump sum paid under article 21.

(4) The actuarial value of any pension, gratuity or lump sum is its actuarial value at the time of the deceased's retirement as calculated by the Government Actuary.

(5) For the purposes of this article no account shall be taken of an increase under article 79(3) or 81 in an award to a serviceman.

Increase of pensions and allowances during first 13 weeks

51.—(1) Paragraphs (2) to (4) apply to a surviving spouse's or civil partner's ordinary, special or accrued pension ("the survivor's pension") where the deceased died—

- (a) while serving as a regular fireman; or
- (b) while in receipt of a pension.

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

- (a) the survivor's pension; and
- (b) any children's allowances payable,

is not less than the appropriate amount.

(3) The appropriate amount is—

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

immediately before the death.

- (4) For the purposes of paragraph (3)(b)—
- (a) any reduction in the deceased's pension under paragraph 3 of Part VI of Schedule 2 (additional benefits) or under Part IX of that Schedule (up-rating of widow's pensions) shall be disregarded; and
 - (b) where the deceased died while in receipt of an injury pension as well as an ordinary, short service or ill-health pension, the reference to the weekly amount of the deceased's pension shall be construed as a reference to the aggregate weekly amount of both the pensions.
- (5) Paragraphs (6) and (7) apply to a child's ordinary, special or accrued allowance where the deceased died as mentioned in paragraph (1) and—
- (a) there is no surviving spouse or civil partner; or
 - (b) a surviving spouse or civil partner did not become entitled to a pension which was payable for a continuous period of 13 weeks.
- (6) Subject to paragraph (7), for each of the first 13 weeks for which it is payable an allowance shall if necessary be increased—
- (a) so that the amount paid in respect of it is not less than the appropriate amount ascertained in accordance with paragraphs (3) and (4); or
 - (b) where two or more allowances are payable, so that the amount paid in respect of each of them is not less than that appropriate amount divided by the number of allowances.
- (7) No allowance shall be increased under paragraph (6) for any week for which a pension is payable to a surviving spouse or civil partner.

Flat-rate awards

- 52.—(1) This article applies where an election has effect under—
- (a) paragraph 2 of Part I of Schedule 3 (spouse's or civil partner's ordinary pension); or
 - (b) paragraph 3 of Part III of Schedule 3 (spouse's or civil partner's accrued pension); or
 - (c) paragraph 3 of Part I of Schedule 4 (child's ordinary allowance); or
 - (d) paragraph 3 of Part I of Schedule 4 as applied by Part III of that Schedule (child's accrued allowance).
- (2) Subject to paragraph (3), where paragraph (1)(a) or (b) applies the amount of the pension is—
- (a) if the deceased's last rank was not higher than sub-officer ("Case A"); £379.78;
 - (b) if it was higher than sub-officer but not higher than divisional officer (Grade 1) ("Case B"), £494.54; and
 - (c) if it was higher than divisional officer (Grade 1) ("Case C"), £594.18,
- increased in each case, in accordance with paragraph (7).
- (3) Where—
- (a) paragraph (1)(a) applies and the deceased was entitled to reckon at least 10 years' pensionable service; or
 - (b) paragraph (1)(b) applies and the deceased ceased to serve as a regular fireman after 5th April 1975 and would, had he continued to serve until he could have

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been required to retire on account of age, have become entitled to reckon at least 10 years' pensionable service,

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

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

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

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

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

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

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

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

- (a) in Case A, £209.19;
- (b) in Case B, £249.88; and
- (c) in Case C, £311.44.

(7) An amount arrived at under paragraphs (2) to (6) ("the basic rate") shall be increased to an amount equal to the annual rate (rounded up to the nearest penny) at which the pension or allowance would for the time being be payable if it had been an official pension, within the meaning of the Pensions (Increase) Act (Northern Ireland) 1971 ("the 1971 Act"), which began, and first qualified for increases under the 1971 Act, on 30th June 1978 and was then payable at the basic rate.

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

(9) If the deceased was a pension debit member, this article has effect as if the sums referred to in paragraph (2)(a), (b) and (c) were reduced in the same proportion as the member's rights are reduced by virtue of Article 28 of the 1999 Order.

PART F

PENSIONABLE SERVICE AND TRANSFER VALUES

Reckoning of and certificates as to pensionable service

53.—(1) Subject to paragraph (2), a person is entitled to reckon as pensionable service the total of the periods he is entitled to reckon under articles 54 to 62 and, in the case of a serviceman, any period reckonable under article 83 (pensionable service).

(2) No period is reckonable as pensionable service under more than one provision of articles 54 to 62.

(3) Within 6 months of the date on which a person becomes entitled to reckon a period as pensionable service under article 55, 56, 57, 58, 59, 60, 62 or 83 the Authority shall supply him with a certificate showing the pensionable service he was entitled to reckon on that date (“the material date”).

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

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

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

(7) For the purposes of paragraphs (3) to (6) a serviceman shall be treated as only becoming entitled to reckon service under article 83 if and when he resumes service as a member of the fire brigade.

Current service

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

- (a) any period of service as a regular fireman after 31st March 1972, except a period during which pension contributions were not payable under article 66, as a member of the fire brigade; and
- (b) if he was a member of the fire brigade both on and immediately before 1st April 1972, any period he was entitled to reckon immediately before that date, under a previous scheme.

(2) A person is not entitled to reckon as pensionable service by virtue of paragraph (1)—

- (a) if he has ceased to be a member of the fire brigade and rejoined the brigade after 31st March 1972, any period of service before he last so rejoined ; or
- (b) any period of absence from duty as a regular fireman as a result of sickness or injury certified by a qualified medical practitioner to be due to his own misconduct; or
- (c) subject to paragraph (3) and article 55 any period of absence from duty without pay; or
- (d) any period of maternity or adoption leave in respect of which the person has the right to, but does not, pay contributions under article 67.

(3) The Authority may at any time resolve that a person serving as a regular fireman shall be entitled to reckon as pensionable service all or part of any period of absence (excluding absence for maternity, paternity or adoption leave) from duty without pay; in that event he becomes liable to pay the Authority the contributions (including any such additional or further contributions as are mentioned in article 69) that would have been payable for the reckonable period if he had been paid at his normal rate.

(4) For the purpose of paragraph (3) any period of absence from duty without pay does not include a period of maternity leave which falls on or after 23rd June 1994, or a period of adoption leave or paternity leave which falls on or after 6th April 2004.

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(5) Any periods of pensionable service before and after any period of maternity or adoption leave in respect of which the person has the right to, but does not, pay continuous contributions under article 67 shall be treated as continuous.

Maternity, paternity and adoption leave

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

- (a) paid maternity leave
- (b) unpaid ordinary maternity leave, and
- (c) unpaid maternity leave in respect of which she has paid pension contributions to the Authority in accordance with article 67,

taken on or after 23rd June 1994.

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

- (a) paternity leave;
- (b) ordinary adoption leave
- (c) paid additional adoption leave, and
- (d) unpaid additional adoption leave in respect of which he has paid contributions to the Authority in accordance with article 67.

Previous service reckonable without payment

56. A person who—

- (a) has retired with an ill-health pension; and
- (b) has resumed service as a regular fireman in the circumstances and within the period mentioned in article 94(1) to (4) (cancellation of ill-health pension),

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

Previous service reckonable on payment

57.—(1) A person who—

- (a) has retired without a pension and without any transfer value or cash equivalent becoming payable by the Authority; and
- (b) has within 12 months, with the written consent, applied for before retiring, of the Authority, rejoined the fire brigade as a regular fireman; and
- (c) within 6 months of so rejoining, or such longer period as the Authority may allow, has undertaken to pay the required amount in accordance with paragraph 1 of Part I of Schedule 6,

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

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

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

B is so much of A as represents a return of such additional and further payments as were mentioned in Articles 51 to 53 of the 1973 Scheme, and

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

- (3) A person who—
- (a) has retired with no pension other than an ill-health pension the unsecured portion of which has been terminated as mentioned in article 94(3); and
 - (b) has again become a regular fireman; and
 - (c) within 6 months of his again becoming a regular fireman, or such longer period as the Authority, may allow, has undertaken to pay in accordance with paragraph 1 of Part I of Schedule 6 a sum calculated in accordance with paragraph 2 of that Part,
- is entitled to reckon as pensionable service the period he was entitled to reckon when he retired.

- (4) 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(12);
 - (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 fire brigade mentioned in sub-paragraph (a);
 - (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 paragraph 1 of Part 1 of Schedule 6—
 - (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.

(5) Such a person as is mentioned in paragraph (4) 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.

(6) 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.

- (7) A person who—
- (a) has retired with a deferred pension; and
 - (b) has by written notice to the Authority relinquished the pension; and
 - (c) has again become a regular fireman; and

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- (d) within 6 months of his again becoming a regular fireman, or such longer period as the Authority may allow, has undertaken to pay in accordance with paragraph 1 of Part I of Schedule 6 the required amount described in paragraph (2),

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

(8) If immediately before the retirement a person entitled to reckon service under paragraph (7) was making by way of contributions any such additional or further payments as are mentioned in Articles 51 and 52 of the 1973 Scheme—

- (a) the Authority shall repay him the amount he paid by way of such contributions; and
- (b) he shall be treated as having neither paid nor elected to pay the contributions.

Period during which injury pension was payable

58.—(1) A person who—

- (a) has retired and become entitled to an injury pension; and
- (b) has resumed service as a regular fireman in the circumstances and within the period mentioned in article 94(1) to (4); and
- (c) within 6 months of his resuming service, or such longer period as the Authority may allow, has undertaken to pay the required amount in accordance with paragraph 1 of Part I of Schedule 6,

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

(2) The required amount is the total of the pension contributions (excluding such additional and further contributions as were mentioned in Articles 51 and 52 of the 1973 Scheme) that would have been payable by him for the pension period if he had continued to serve as a regular fireman in the rank he held immediately before the retirement.

War service

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

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

Previous service reckonable following actionable loss

60.—(1) This article applies to a regular fireman who—

- (a) has opted out or transferred out or both;
- (b) has suffered loss as a result of a contravention which is actionable under section 62 of the Financial Services Act 1986⁽¹³⁾ (actions for damages in respect of contraventions of rules etc. made under the Act), or section 150 of the Financial Services and Markets Act 2000⁽¹⁴⁾.

(2) A regular fireman—

- (a) to whom this article applies; and

⁽¹³⁾ 1986 c. 60

⁽¹⁴⁾ 2000 c. 8

- (b) who has given notice under article 68(5) cancelling his election under article 68(1),

may give written notice to the Authority that he wishes it to accept payment of a transfer value in order to create or restore his reckonable service.

- (3) Paragraph (4) or (5) applies where the Authority has accepted—

- (a) within 12 months of the date of the notice given under paragraph (2); or
- (b) such longer period as it may allow,

payment of a transfer value in relation to a regular fireman by whom a notice has been given under paragraph (2) (whether or not he has ceased to be a regular fireman after the date of the notice) not exceeding the amount which it calculates in accordance with article 61 would need to be made as a restitution payment in respect of him.

- (4) Where the amount of the transfer value equals the amount which the Authority calculates in accordance with article 61 would need to be made as a restitution payment in respect of that fireman—

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

- (5) Where the amount of the transfer value is less than the amount which the Authority calculates in accordance with article 61 would need to be made as a restitution payment in respect of that fireman—

- (a) the Authority shall calculate in accordance with the methods and assumptions required by article 61 the period of reckonable service that the transfer value represents and treat as reckonable service such period;
- (b) he shall be treated for the purpose of calculating any award under this Scheme as having made pension contributions throughout the period of reckonable service credited under this paragraph; and
- (c) that period shall be treated as a continuous period with the same final date as the final date of the relevant period.

- (6) Where a regular fireman who is being credited under paragraph (4) or (5) with a period of reckonable service has previously been credited with an additional period of reckonable service calculated in accordance with Part IV of Schedule 6 (amount of transfer value) in respect of the relevant period, the Authority may adjust the amount of the transfer value that it accepts under this article to ensure that no part of the additional period of reckonable service that was previously credited is included in the period of reckonable service credited under paragraph (4) or (5).

- (7) In this article and article 61 —

- (a) a person shall be taken to have opted out if he had elected under article 68(1) (election not to pay pension contributions) not to pay pension contributions and for any period during which he was a regular fireman he instead made contributions to a personal pension scheme;
- (b) a person shall be taken to have transferred out if a transfer value has been paid in respect of him under article 64 (payment of transfer values) by the Authority to a personal pension scheme;

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- (c) “personal pension scheme” has the meaning given in section 1 of the Pension Schemes (Northern Ireland) Act 1993⁽¹⁵⁾; and
- (d) “relevant period”, in relation to a regular fireman, means the total of any periods of opted out and, where appropriate, transferred out service.

Calculation of amount of restitution payment

61.—(1) The Authority shall calculate in accordance with this article the restitution payment that would need to be made to it in respect of a person to whom article 60 applies to create or restore his position to what it would have been if he had not opted out or, where relevant, also transferred out.

- (2) The restitution payment for a regular fireman is an amount equal to the sum of—
 - (a) the capitalised value at the material date, determined in accordance with the relevant methods and assumptions, which would produce a service credit equal to his total period of opted out service, including the capitalised value of any rights under the Pensions (Increase) Act (Northern Ireland) 1971⁽¹⁶⁾ and the Pensions (Increase) (Northern Ireland) Order 1974⁽¹⁷⁾; and
 - (b) in the case of a regular fireman who also transferred out, the greater of—
 - (i) any transfer value paid to a personal pension scheme in respect of his transferred out service by the Authority under article 64 (payment of transfer values), increased by interest calculated at a rate approved by the Government Actuary over the period from the date of payment of that transfer value to the assumed calculation date; and
 - (ii) the cash equivalent transfer value that would be payable by the Authority in respect of that transferred out service if it were to pay a cash equivalent transfer value in respect of that service determined in accordance with the relevant methods and assumptions applicable immediately after the assumed calculation date.

- (3) In this article—

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

“material date” means the date on which the Authority receives a notice under article 60(2); and

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

Receipt of transfer value

62.—(1) Subject to paragraphs (2) to (4) and (6), the Authority may accept a transfer value offered to it, in respect of a person who has become a regular fireman, by the scheme managers of a superannuation scheme to which he was subject in previous service or employment (“the previous scheme”).

(2) The person must have made a written request to the Authority for the transfer value to be accepted.

- (3) A transfer value may not be accepted—

⁽¹⁵⁾ 1993 c. 49

⁽¹⁶⁾ 1971 c. 35(N.I.)

⁽¹⁷⁾ S.I. 1974/1267 (N.I. 2)

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- (a) if one was accepted before 1st April 2006 in relation to the same transfer; or
- (b) where the person became a regular fireman before 1st April 2006] if a transfer value could not have been accepted under Article 65A(18) of the 1973 Scheme; or
- (c) if he had a guaranteed minimum in relation to a pension provided by the previous scheme unless—
 - (i) the previous scheme is a club scheme, or
 - (ii) the transfer value offered is of at least the required amount.

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

A is the annual amount of the guaranteed minimum pension to which he would be entitled under article 89 if the transfer value were accepted, and

B is the factor ascertained from the Table by reference to his age at the date on which he requested the Authority to accept it.

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

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

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

Transfer payments between fire authorities

63.—(1) Where a person—

- (a) has retired from the brigade; and
- (b) has after 1st April 2006 become a regular fireman in a brigade maintained under the Fire Services Act 1947 (“the second brigade”); and
- (c) has become entitled under article 57 to reckon as pensionable service the period he was entitled to reckon when he retired,

the Authority shall subject to paragraph (2) pay to the fire authority maintaining the second brigade a sum calculated in accordance with Part III of Schedule 6.

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

Payment of transfer values

64.—(1) Subject to paragraphs (2) to (9), the Authority—

- (a) may pay a transfer value in respect of a person who has, before attaining state pensionable age, either ceased to serve as a regular fireman in the brigade or elected under article 68 not to pay pension contributions and has become subject to another superannuation scheme (“the receiving scheme”); and
- (b) shall pay a transfer value in respect of such a person if the receiving scheme is an approved scheme.

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

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

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

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

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

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

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

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

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

(8) A transfer value may not be paid if the person—

- (a) has acquired a right to a part cash equivalent; and
- (b) would on taking that right remain entitled to a deferred pension.

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

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

(11) Part IV of Schedule 6 has effect for determining the amounts of transfer values payable under this article.

PART G

PENSIONABLE PAY AND CONTRIBUTIONS

Pensionable pay and average pensionable pay

65.—(1) Subject to paragraph (2), the pensionable pay of a regular fireman is the pay he receives (whether as a whole-time or part-time member of the fire brigade) in the ordinary course of fulfilling his duties as determined—

- (a) in relation to his rank; or
- (b) in the case of a chief fire officer, deputy chief fire officer or assistant chief fire officer, for the post

during the period used to calculate his average pensionable pay in paragraph (4).

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

(a) for the first time; or

(b) following any period in respect of which they were not payable,

except where regulation 4 of the Retirement Benefit Schemes (Tax Reliefs on Contributions) (Disapplication of Earnings Cap) Regulations 1990⁽¹⁹⁾ applies his pay shall be taken not to include any excess, in any tax year, over the figure which is the permitted maximum for that year for the purposes of section 594(2) and (3) of the Income and Corporation Taxes Act 1988⁽²⁰⁾ (that is to say, the figure specified for the year by an order made by the Treasury under section 590C(6) of that Act).

(3) For the purposes of article 67 the pensionable pay of a regular fireman during a period of maternity, paternity or adoption leave shall be deemed to be the pay to which the person is entitled for that period including any statutory maternity, paternity or adoption pay under the Social Security Contributions and Benefits (Northern Ireland) Act 1992.

(4) The average pensionable pay of a regular fireman is, subject to paragraphs (6) to (8), the aggregate of his pensionable pay for the year ending with the relevant date.

(5) Pay is pensionable pay when it is paid to a regular fireman at the rate applicable to his rank and in the ordinary course of fulfilling his duties under this contract of employment during the relevant period used to determine average pensionable pay.

(6) Subject to paragraphs (7) and (8), if he was in receipt of pensionable pay for part only of the year ending with the relevant date, his average pensionable pay is the aggregate of his pensionable pay for that part multiplied by the reciprocal of the fraction of the year which that part represents.

(7) For the purposes of paragraphs (4) and (6) any reduction of pensionable pay as a result of any-

(a) sick leave;

(b) stoppage by way of punishment;

(c) ordinary maternity, ordinary adoption or paternity leave;

(d) paid additional maternity or additional adoption leave ; or

(e) unpaid additional maternity or additional adoption leave where contributions have been paid under article 67,

shall be disregarded.

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

(9) The relevant date is—

(a) for the purposes of article 18 (injury award), 29 (spouse's or civil partner's special award), 34 (spouse's or civil partner's award where no other award payable), 39 (child's special allowance), 40 (child's special gratuity) and 45 (adult dependent relative's special pension), the date of the person's last day of service as a regular fireman; and

⁽¹⁹⁾ S.I. 1990/586

⁽²⁰⁾ 1988 c. 1:section 590C was inserted, and section 594 amended, by the Finance Act 1989 (c. 26), section 75 and Schedule 6 paragraphs 4 and 6.

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(b) for all other purposes, the date of his last day of service in a period during which pension contributions were payable under article 66(1).

(10) A regular fireman's average pensionable pay for a week is his average pensionable pay divided by 52 1/6th.

Pension contributions

66.—(1) A regular fireman shall, except while an election under article 68 has effect, pay pension contributions to the Authority at the rate of 1p a week less than 11% of his pensionable pay.

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

Optional pension contributions during maternity and adoption leave

67.—(1) A regular fireman who—

(a) is on maternity or adoption leave which would not otherwise count as pensionable service under article 55; and

(b) who, for the whole or part of the period of leave is not entitled to receive pay (including any statutory maternity pay or statutory adoption pay under the Social Security Contributions and Benefits (Northern Ireland) Act 1992),

may elect to pay pension contributions in respect of such period.

(2) The contributions shall be calculated by applying article 66 to the pensionable pay (including any statutory maternity or adoption pay under the Social Security Contributions and Benefits (Northern Ireland) Act 1992) received by him immediately before the start of the unpaid period in question.

(3) An election to pay pension contributions under paragraph (1) must be made by the person in writing to the Authority before the expiry of a period of 30 days (or such longer period as the Authority may allow) beginning with—

(a) the day on which he returns to work, or

(b) if he does not return to work after the leave period, the day he ceases to be employed by the Authority.

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

(5) On receipt of the notice the Authority shall calculate the amount of contribution due and shall give notice in writing of that amount to the person concerned.

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

(7) Where the period of additional maternity or additional adoption leave ended prior to 1st April 2006 the provisions of this article shall apply where the person gives written notice to the Authority by 1st August 2006.

Election not to pay pension contributions

68.—(1) Subject to paragraph (9), a regular fireman may at any time, by giving written notice to the Authority, elect that article 66 is not to apply in his case.

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

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

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

- (a) the Authority shall repay the person the pension contributions paid by him since that date; and
- (b) for the purposes of articles 33 and 34 pension contributions shall be taken not to have been payable by him at any time.

(5) Subject to paragraphs (6) and (7), a person who has made an election under paragraph (1) may cancel it by giving written notice to the Authority.

(6) Except in the case of a person to whom article 60 applies, a notice under paragraph (5) must be given no later than his 45th birthday.

(7) Except in the case of a person to whom article 60 applies, the Authority may resolve that a person’s election may not be cancelled unless he has undergone a medical examination, at his own expense, and satisfied it as to his good health.

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

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

(10) References in this Scheme to any period during which an election under this article not to pay pension contributions had effect shall not include any period in respect of which a transfer value or lump sum has been paid under article 60.

Continued payment of additional and further contributions

69. A regular fireman who immediately before 1st April 2006 was still liable to pay additional or further contributions pursuant to an election under Article 52(2) or (3) of the 1973 Scheme shall continue to pay them, except while an election under article 68 has effect, for so long as they would have remained payable if that Scheme had not been revoked.

Purchase of increased benefits

70.—(1) For the purpose of securing increased benefits as provided in article 73, additional sixtieths of average pensionable pay may be purchased in accordance with articles 71 and 72 by eligible persons.

(2) An eligible person is a regular fireman—

- (a) who is paying pension contributions under article 66;
- (b) whose normal pension age is at least 9 years after the date on which he last became a regular fireman; and
- (c) who at his normal pension age would be entitled to reckon less than 30 years' pensionable service.

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Election to purchase increased benefits

71.—(1) Subject to paragraphs (2) to (4) and article 74, an eligible person may, by giving written notice to the Authority, elect to purchase a specified number of sixtieths on his average pensionable pay by paying to the Authority—

- (a) a lump sum calculated in accordance with paragraph 1 or 2 of Part I of Schedule 8; or
 - (b) periodical contributions calculated in accordance with paragraph 3 or 4 of that Part.
- (2) The number of sixtieths specified—
- (a) must not be such that, if he continued to serve as a regular fireman until his normal pension age, more than 40 sixtieths of his average pensionable pay would count in calculating his pension; and
 - (b) need not be a whole number.
- (3) An election to pay a lump sum—
- (a) must be made within 12 months after the date on which he last became a regular fireman; and
 - (b) if the sum is not paid within 3 months of the date that payment of periodical contributions commenced, that portion of the election shall be treated as not having been made.
- (4) An election to pay periodical contributions must be made at least 2 years before the person's retirement date, but no such election may be made—
- (a) if the Authority has notified him that they require him to retire under article 12 (efficiency) or 13 (disablement), or
 - (b) if the Authority so resolves, unless he has at his own expense undergone a medical examination and satisfied it as to his good health.
- (5) An election under this article—
- (a) takes effect, subject to paragraph (3)(b), on the day on which the written notice is received by the Authority;
 - (b) continues to have effect notwithstanding any postponement by reason of promotion of the date on which the person could be required to retire on account of age; and
 - (c) is irrevocable.

Payment of periodical contributions for increased benefits

72.—(1) Subject to paragraphs (2) to (4), where a person has elected under article 71 to pay periodical contributions they are payable from his next birthday and continue to be payable until the earliest of—

- (a) his normal pension age;
 - (b) the date on which he ceases to serve as a regular fireman; and
 - (c) the date on which any election under article 68 takes effect.
- (2) If before his normal pension age he—
- (a) retires with an ill-health pension, and resumes service as a regular fireman; or
 - (b) having made an election under article 68, cancels it,

the contributions again become payable, and continue to be payable as provided in paragraph (1).

(3) If for any period the total of—

- (a) the periodical contributions calculated in accordance with paragraph 3 or 4 of Part I of Schedule 8; and
- (b) his pension contributions under article 66 and any additional or further contributions remaining payable by virtue of article 69,

exceeds 15% of his pensionable pay, the excess is not payable by way of contributions under paragraph (1), but he shall make a lump sum payment of its actuarial equivalent as determined by the Government Actuary and if that payment is not made within 3 months of the date of the payment of periodical contributions commenced that portion of the election shall be treated as not having been made.

(4) If the Authority is satisfied that payment of the periodical contributions is causing, or is likely to cause, financial hardship it may consent to the discontinuance of payment for such period as it thinks fit.

Effect of payment for increased benefits

73.—(1) Where a person has paid a lump sum, or begun paying periodical contributions, in accordance with an election under article 71—

- (a) if he becomes entitled to a pension under article 15, 16, 17 or 19 (ordinary, short-service, ill-health and deferred pensions) the amount of the pension, before any commutation under article 21, shall be increased by the appropriate amount; and
- (b) awards mentioned in paragraph 2(2), 3(2), 4 and 5 of Part III of Schedule 8 shall be increased in accordance with that Part.

(2) Subject to paragraph (3), where the person—

- (a) dies while serving as a regular fireman; or
- (b) retires with an ill-health pension; or
- (c) retires on or after his normal pension age,

the appropriate amount is the number of sixtieths of his average pensionable pay specified in the election.

(3) If the person had begun paying periodical contributions and—

- (a) payment of those contributions had at any time been discontinued under article 72(4); or
- (b) he had made and subsequently cancelled an election under article 68,

the appropriate amount is the amount described in paragraph 1 of Part II of Schedule 8.

(4) Where on—

- (a) ceasing to be a member of the fire brigade in circumstances not falling within paragraph (2); or
- (b) making an election under article 68 which is not subsequently cancelled,

the person does not become entitled to the repayment of his aggregate pension contributions, the appropriate amount is to be ascertained from paragraphs (5) and (6).

(5) Subject to paragraph (6)—

- (a) if he had paid a lump sum, the appropriate amount is the number of sixtieths of his average pensionable pay specified in the election, and

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(b) if he had begun paying periodical contributions, the appropriate amount is the amount described in paragraph 2 of Part II of Schedule 8.

(6) Where he retires with an ordinary pension before his normal pension age, the appropriate amount is the amount specified in paragraph (5)(a) or (b) reduced by the actuarial valuation described in paragraph 3 of Part II of Schedule 8.

Pension debit members: restriction on replacement of debited rights

74.—(1) Subject to paragraph (2), a pension debit member may not replace any rights debited to him as a consequence of a pension sharing order with any rights which he would not have been able to acquire (in addition to the debited rights) had the order not been made.

(2) Paragraph (1) does not apply if and to the extent that regulations made under paragraph 18(10) or (11) of Schedule 10 to the Finance Act 1999⁽²¹⁾ make provision as a result of which the requirement in section 590(3)(bb) of the Income and Corporations Taxes Act 1988 has effect in the case of this Scheme with any exception, exclusive of modification permitting a member to replace any rights so debited.

PART H

DETERMINATION OF QUESTIONS AND APPEALS

Determination by the Authority

75.—(1) 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 paragraph (3), before deciding, for the purpose of determining that question or any other question arising under this Scheme—

- (a) whether a person has been disabled;
- (b) whether any disablement is likely to be permanent;
- (c) whether any disablement has been occasioned by a qualifying injury;
- (d) the degree to which a person is disabled;
- (e) whether a person has become incapable of performing the duties of a regular fireman; or
- (f) any other issue wholly or partly of a medical nature,

the Authority shall obtain the written opinion of at least one qualified medical practitioner selected by it and the opinion of the qualified medical practitioner shall be binding on the Authority.

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

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

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

Appeal against opinion on a medical issue

76.—(1) Where—

- (a) an opinion of the kind mentioned in article 75(2) has been obtained; and
- (b) within 14 days of his being notified of the Authority's decision on the issue the person concerned applies to it for a copy of the opinion,

the Authority shall supply him with a copy, together with a statement informing the person concerned that, if he wishes to appeal against the opinion, he must give the Authority written notice of his grounds of appeal, together with his name and address, within 14 days of the date on which he is so supplied.

(2) If the person concerned is dissatisfied with the opinion which has been supplied to him under paragraph (1), he may appeal against it by giving notice to the Authority in accordance with paragraph 1 of Schedule 9.

(3) The Authority shall be bound by any decision on a medical issue duly given on an appeal under this article. A decision given under this article overrules that of the medical practitioner selected by the Authority under article 75.

(4) In this article, "medical issue" means any issue referred to in article 75(2).

(5) Further provisions as to appeals under this article are contained in Schedule 9.

Appeal against decision of the Authority

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

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

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

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

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

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

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

- (a) control or restrict the exercise of any discretion which is by this Scheme vested in the Authority other than the discretion so vested by article 98;
- (b) reopen any medical issue decided on appeal under article 76; or
- (c) question any certificate as to pensionable service which has become conclusive under article 53(5).

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

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PART I SERVICEMEN

Preliminary

78.—(1) A serviceman is a person who immediately before undertaking relevant service in the armed forces was a regular fireman.

(2) For the purposes of this Scheme a serviceman is to be treated as having continued to be a regular fireman during his period of relevant service in the armed forces (referred to in this Part as his “forces period”).

Award to servicemen

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

(2) Subject to paragraphs (3) and (4), article 17 (ill-health award) has effect in relation to a serviceman to whom this article applies as if he had been required to retire under article 13 (compulsory retirement on grounds of disablement) at the end of his forces period.

(3) Where the infirmity that occasioned his incapacity for the performance of duty was occasioned by an injury received during his forces period or by a qualifying injury the Authority may, in its discretion—

- (a) pay him, instead of an ill-health gratuity under article 17(2)(b), a pension at the rate of 1/12th of his average pensionable pay; and
- (b) subject to paragraph (4), increase any such pension, or any ill-health pension payable to him under article 17(2)(a).

(4) Paragraph 1 of Schedule 10 has effect for limiting increases under paragraph (3)(b).

Awards on death of servicemen

80.—(1) This article applies in the case of a serviceman who—

- (a) dies during his forces period; or
- (b) was permanently disabled at the end of his forces period, has not since been a regular fireman and dies either from the effects of an injury that occasioned his incapacity for the performance of duty or while in receipt of a pension.

(2) Subject to paragraphs (4) and (5), where this article applies—

- (a) article 28 (spouse’s or civil partner’s ordinary pension) has effect as if the serviceman had died in the circumstances mentioned in article 28(1)(b) to (d); and
- (b) if the serviceman died during his forces period and no pension is payable under article 28, article 34 (spouse’s or civil partner’s award where no other award payable) has effect as if he had died in the circumstances mentioned in article 34(1).

(3) Subject to paragraph (4) where this article applies article 38 (Child’s ordinary allowance) has effect as if the serviceman had died in the circumstances mentioned in article 38(1).

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

- (a) pay the surviving spouse or civil partner, instead of a gratuity under article 34(2)
- (b), a pension of the appropriate amount; and

(b) subject to paragraph (6), increase any such pension and any pension or child's allowance payable under article 28 or 38.

(5) The appropriate amount mentioned in paragraph (4)(a) is £379.78 increased as described in article 52(7) (flat-rate awards).

(6) Paragraphs 2 and 3 of Schedule 10 have effect for limiting increases under paragraph (4)(b).

Servicemen who resume service as regular firemen

81. If as a result of an injury received during his forces period a serviceman who has resumed service as a regular fireman—

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

the Authority may, in relation to any award payable to or in respect of him, exercise the like discretions as are conferred on it by, as the case may be, article 79(3) and (4) or article 80(4) to (6).

Servicemen who do not resume service in the brigade

82.—(1) Subject to paragraph (3), a serviceman who does not resume service in the fire brigade within one month from the end of his forces period shall be treated for the purposes of the material provisions as having left the fire brigade at the end of that period.

(2) The material provisions are those of articles 19 (deferred pension), 32 (limitation award to surviving spouse or civil partner with reference to date of marriage or civil partnership), 56 (previous service reckonable without payment), 57 (previous service reckonable on payment), 64(9) (no award where transfer value paid) and 65 (pensionable pay and average pensionable pay).

(3) The serviceman may apply for the consent mentioned in article 57(1)(b) (Authority's consent to rejoining brigade) within one month from the end of his forces period.

Pensionable service

83. For the purposes of article 54(1) a serviceman shall be treated as having continued during his forces period to serve in the fire brigade.

Pension contributions

84.—(1) Subject to paragraph (2), for the purposes of article 66 a serviceman's pensionable pay during his forces period is the pay he would have received if he had continued to serve in the fire brigade.

(2) A serviceman shall for those purposes be treated as having received no pensionable pay (and accordingly is not liable to pay contributions) in respect of any period during which the total of—

- (a) his service pay; and
- (b) any payments under Part V of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951(22),

is less than the pensionable pay described in paragraph (1).

PART J

PENSION CREDIT MEMBERS

Pension credit member's entitlement to pension

85.—(1) Subject to article 86, a pension credit member is entitled to a pension for life which becomes payable -

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

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

Commutation of the pension credit benefits

86.—(1) In the circumstances described in regulation 3(2)(b) of the Pension Sharing (Pension Credit Benefit) Regulations (Northern Ireland) 2000(23) (commutation of the whole of pension credit benefit), the Authority may commute for a lump sum the whole of the pension to which a pension credit member is entitled under article 85.

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

(3) But paragraph (2) does not apply if the pension debit member from whose rights the pension credit member's pension credit is derived has received a lump sum under article 21 before the date on which the pension sharing order takes effect.

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

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

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

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

whichever is the later, give the Authority written notice of commutation, specifying the portion to be commuted.

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

- (a) the date on which the pension under article 85 becomes payable, and
- (b) the date on which it is received by the Authority.

(8) When a person's notice of commutation takes effect, the Authority shall

- (a) reduce the pension, as from the effective date, by the commuted portion, and

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

whichever is the later.

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

87. If a pension credit member dies before any benefits deriving from the member's pension credit have become payable to him under this Scheme, a lump sum death grant is to be paid to the personal representatives of an amount equal to the annual rate of the pension to which the member would have been entitled under article 85 if he had attained normal benefit age on the date of his death (as calculated from tables prepared by the Government Actuary) multiplied by 2.25.

Application of general rules

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

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

(2) Those provisions are -

- article 75 (determination by the Authority),
- article 77 (appeal against decision of the Authority),
- article 98 (withdrawal of pension on conviction of certain offences),
- article 99 (payment of awards), and
- article 101(1) to (5) and (10) (payments of awards-supplementary).

PART K

SPECIAL CASES

Guaranteed minimum pensions

89.—(1) This article applies where a person who is or has been a regular fireman has a guaranteed minimum in relation to a pension provided by this Scheme by reason of service before 6th April 1997 which is contracted-out employment by reference to the Scheme.

(2) Subject to paragraphs (3) to (7)—

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- (a) the person is entitled from the date on which he attains state pensionable age to a pension at a weekly rate equal to his guaranteed minimum;
 - (b) in the case of a man who dies at any time and leaves a widow or civil partner, that widow or civil partner is entitled to a pension at a weekly rate equal to half his guaranteed minimum; and
 - (c) in the case of a woman who dies at any time and leaves a widower or civil partner, that widower or civil partner is entitled to a pension at a weekly rate equal to half of that part of the deceased's guaranteed minimum which is attributable to earnings factors for the tax year 1988-89 and subsequent tax years up to and including the tax year 1996-1997.
- (3) A pension to which a person is entitled under paragraph (2)(a) is not payable for any period within 5 years after his attaining state pensionable age during which—
- (a) he is continuing to serve as a regular fireman; or
 - (b) a decision under article 97 (withdrawal of pension during employment as regular fireman) taken by the Authority before he attained state pensionable age has effect.
- (4) An entitlement to a pension under paragraph (2)(b) or (c) ceases if the person entitled remarries or forms a civil partnership before attaining state pensionable age.
- (5) Where a person is entitled to a pension under any other provision of this Scheme—
- (a) a pension under paragraph (2) is payable only if it is greater than the other pension, disregarding any secured portion; and
 - (b) if a pension under paragraph (2) is paid, only the secured portion, if any, of the other pension is payable.
- (6) For the purposes of paragraph (5)—
- (a) a pension includes any increase in it under the Pensions (Increase) Act (Northern Ireland) 1971(24); and
 - (b) in the case of a person entitled to both an injury pension and either an ill-health, ordinary, short service or deferred pension, those pensions shall be treated as one.
- (7) In relation to a pension under paragraph (2)—
- (a) article 22 (commutation of small pensions) applies as it applies in relation to a pension under Part B; and
 - (b) article 98 (withdrawal of pension on conviction of certain offences) applies as it applies in relation to a pension under Part B or C but as if article 98(2)(b) were omitted.
- (8) A pension under paragraph (2) shall not be reduced or extinguished except as provided in this article.

Revaluation of guaranteed minimum

- 90.—(1) This article applies where a person—
- (a) has ceased to serve as a regular fireman; or
 - (b) has elected under article 68 not to pay pension contributions,

(24) 1971 c. 35(N.I.)

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and has taken a right to a cash equivalent by exercising the option conferred by section 91(1) of the Pension Schemes (Northern Ireland) Act 1993⁽²⁵⁾ (“the 1993 Act”) wholly or partly in the way specified in section 91(2)(c) of that Act (purchase of annuity).

(2) Where this article applies, to the extent that the person’s guaranteed minimum is otherwise appropriately secured within the meaning of section 15(3) of the 1993 Act—

- (a) for the purposes of section 10(2) of that Act (amount of guaranteed minimum) his earnings factors shall be determined by reference to the last order under section 130 of the Social Security Administration (Northern Ireland) Act 1992⁽²⁶⁾ to come into force before the end of the tax year in which he ceased to serve as a regular fireman or, as the case may be, in which his election under article 68 took effect and without reference to any subsequent order; and
- (b) the weekly equivalent mentioned in section 10(2) of the 1993 Act shall be increased—
 - (i) by at least the prescribed percentage for each relevant year after the end of the tax year in which he ceased to serve as a regular fireman or, as the case may be, in which his election under article 68 took effect, and
 - (ii) in accordance with such additional requirements as may be prescribed for the purposes of section 12(3) of the 1993 Act ⁽²⁷⁾.

(3) In this article—

“relevant year” has the meaning given in section 10(8) of the 1993 Act ⁽²⁸⁾;

“prescribed percentage” has the meaning given in regulation 62 of the Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1996⁽²⁹⁾.

Whole-time or part-time member of brigade who is not a regular fireman

91.—(1) This article applies where a person who is a whole-time or part-time member of the fire brigade but is not a regular fireman suffers an injury, without his own default—

- (a) while in attendance at a fire; and
- (b) in the execution of his duties as a member of the fire brigade.

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

(3) If the person dies from the effects of the injury, either before or after retiring from the fire brigade, the Authority may, subject to paragraph (4)—

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

(4) The total of—

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

must not exceed the appropriate amount.

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

⁽²⁵⁾ 1993 c. 49

⁽²⁶⁾ 1992 c. 8

⁽²⁷⁾ Section 12(3) was amended by the Pensions (Northern Ireland) Order 1995, Schedule 3, paragraph 21

⁽²⁸⁾ Section 10(8) was amended by the Pensions (Northern Ireland) Order 1995, Schedule 3, paragraph 20

⁽²⁹⁾ S.R. 1996 No. 493

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

except a benefit payable under Part V of the Social Security Contributions and Benefits (Northern Ireland) Act 1992⁽³⁰⁾; and a relevant additional benefit is, in relation to a pension or allowance under this article, one by way of periodical payments and, in relation to a gratuity under this article, one otherwise than by way of periodical payments.

- (6) The appropriate amount is—
 - (a) for a pension or gratuity under paragraph (2), that of the injury pension or gratuity under article 18;
 - (b) for a pension or gratuity under paragraph (3)(a), that of the special pension or gratuity under article 29; and
 - (c) for an allowance under paragraph (3)(b), that of the special allowance under article 39,

which would have been payable on the required assumptions.

- (7) The required assumptions are—
 - (a) in every case, that the person was a regular fireman of the rank of fireman;
 - (b) where paragraph (2) applies, that the person retired on account of a qualifying injury during the first year of service and that paragraph 2 of Part V of Schedule 2 (reduction of injury pension on account of certain other pensions) did not apply; and
 - (c) where paragraph (3) applies, that the person died or retired during the first year of service and died from the effects of a qualifying injury.

(8) An injury shall be treated as having been received by a person without his default unless the injury is wholly or mainly due to his own serious and culpable negligence or misconduct.

Retained or volunteer member of the fire brigade

92.—(1) Subject to paragraph (2), this article applies to a person who was a retained or volunteer member of the fire brigade and has retired and is permanently disabled if the infirmity that occasioned his incapacity for the performance of duty was occasioned by a qualifying injury.

(2) Paragraph (1) does not apply where the person was also employed by the Authority as a regular fireman.

- (a) (3) A retained member of the Brigade is one who is obliged to attend
 - (i) at the station to which he is attached for training and maintenance duties for an average of two hours each week (plus an additional hour per week on average at the discretion of the Authority) or such less hours as the officer in charge of the station, subject to any orders of the Chief Fire Officer, considers necessary;
 - (ii) promptly at the said station in response to a call at any time;
 - (iii) at any fire or other occurrence or at any other station for reserve or standby duties in accordance with the orders he receives;

and receives a retaining fee and such other fees as may be appropriate in respect of those duties; and

(b) A volunteer member is one who is obliged to carry out the duties set out at subparagraph (a)(i),(ii) and (iii) but does not receive a retaining fee in respect of those duties.

(4) A person to whom paragraph (1) applies shall be treated for the purposes of articles 17 (ill-health award) and 18 (injury award) as having been a regular fireman falling within the description in paragraph (9), and articles 21 (commutation), 23 (allocation), 24 (limitation of commuted or allocated portion), 94 (cancellation), 95 (reassessment) and 96 (reduction in case of default) apply accordingly in relation to the awards to which he is thus entitled.

(5) Subject to paragraph (6), this paragraph applies where a person who is or has been a retained or volunteer member of the brigade dies from the effects—

(a) of a qualifying injury; or

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

(6) Paragraph (5) does not apply where the person was also employed by the Authority as a regular fireman.

(7) Where paragraph (5) applies and the deceased leaves a surviving spouse or civil partner, the deceased shall be treated for the purposes of articles 29 (spouse's or civil partner's special award) and 30 (spouse's or civil partner's augmented award) as having been a regular fireman falling within the description in paragraph (9), and articles 32 (limitation with reference to date of marriage or formation of civil partnership), 35 (limitation where spouses or civil partners living apart), 36 (effect of remarriage or formation of subsequent civil partnership) and 49 (gratuity in lieu) and 51 (increase of pensions and allowances during the first 13 weeks) apply accordingly in relation to awards to which the spouse or civil partner is thus entitled.

(8) Where paragraph (5) applies and the deceased leaves a child, the deceased shall be treated for the purposes of articles 39 (child's special allowance) and 40 (child's special gratuity) as having been a regular fireman falling within the description in paragraph (9), and articles 42 (limitations), 49 (gratuity in lieu) and 51 (increase of pensions and allowances during first 13 weeks) apply accordingly in relation to awards to which the child is thus entitled.

(9) The regular fireman mentioned in paragraphs (4), (7) and (8) is a whole-time member of the fire brigade and—

(a) held the same rank as the retained or volunteer member of the fire brigade and had the same service in that rank;

(b) was entitled to reckon as pensionable service a period equal to the retained or volunteer member's service as such; and

(c) in respect of any service before 1st April 1980 paid pension contributions at the rate of 6p a week less than 6.75% of his pensionable pay.

Members of the brigade other than regular firemen — supplementary

93.—(1) Part A applies for the interpretation of articles 91 and 92, and Part H, article 98 (withdrawal of pension on conviction of certain offences) and Part L apply in relation to awards under those articles.

(2) Except as provided in paragraph (1) and in articles 91 and 92, this Scheme does not apply in relation to a person who is not a regular fireman.

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PART L

REVISION AND WITHDRAWAL OF AWARDS

Cancellation of ill-health and injury pensions

94.—(1) As long as a person—

- (a) is in receipt of an ill-health pension; and
- (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, would not have attained normal pension age,

the Authority may, if it wishes to exercise the powers conferred by this article, consider, at such intervals as it thinks proper, whether he has become capable of performing the duties of a regular fireman.

(2) The Authority may also consider as mentioned in paragraph (1) in the case of a person who—

- (a) is entitled under article 19 to a deferred pension; and
- (b) has begun to receive payments in respect of the pension on becoming permanently disabled.

(3) 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 his ill-health pension or, in a case falling within paragraph (2), may determine that payment of the deferred pension shall be suspended, that is to say, that the pension shall not be payable in respect of any period before he attains the age of 60.

(4) If within one month after the termination or suspension he presents himself for service in the fire brigade—

- (a) the Authority shall permit him to resume service forthwith in a rank not lower than the rank he held when he retired with the pension; and
- (b) if it does not, the termination or suspension shall be deemed never to have taken effect.

(5) Where the unsecured portion of an ill-health pension is terminated, or payment of a deferred pension is suspended, under this article—

- (a) the secured portion of an ill-health pension is not payable in respect of any period before the person attains state pensionable age;
- (b) any injury pension to which he is entitled is also terminated; and
- (c) unless he is entitled to a deferred pension, he shall be paid the amount, if any, by which his aggregate pension contributions exceed the amount specified in paragraph (6).

(6) The amount is the total of—

- (a) the sums paid in respect of the ill-health pension;
- (b) if, one month after the termination, he had a guaranteed minimum in relation to a pension provided by this Scheme, the actuarial value (calculated in accordance with tables prepared from time to time by the Government Actuary) of a pension equal to the guaranteed minimum and beginning at state pensionable age; and
- (c) the actuarial value (so calculated) of the secured portion of the ill-health pension, so far as it is payable under paragraph (5).

Reassessment of injury pension

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

(2) Where—

- (a) the person is not also in receipt of an ordinary, ill-health or short service pension; and
- (b) the Authority, on consideration under paragraph (1), find that his disability has ceased,

the injury pension is terminated.

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

Reduction of award in case of default

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

- (a) is permanently disabled; and
- (b) has brought about or contributed to his infirmity by his own serious and culpable negligence or misconduct,

the Authority may reduce any ill-health award payable to him by it to not less than half its full amount.

(2) Where—

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

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

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

Withdrawal of pension during service as regular fireman

97. The Authority may withdraw the whole or any part of the pension, except a pension under Part C (Awards on death – spouses and civil partners), for any period during which the person entitled to it is serving as a regular fireman in a brigade maintained under the Fire Services Act 1947.

Withdrawal of pension on conviction of certain offences

98.—(1) Subject to paragraph (4), in the circumstances specified in paragraph (2), the Authority may withdraw a pension in whole or in part, and permanently or temporarily as it may specify.

(2) The circumstances are—

- (a) that the person entitled to the pension (“the pensioner”) has been convicted of an offence falling within paragraph (3), and in the case of a pension under Part C that the offence was committed after the death on which the pensioner became entitled to it; or

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- (b) that the pensioner has been convicted of an offence committed in connection with his service as a member of the brigade which is certified by a Minister of the Crown either to have been gravely injurious to the interests of the State or to be liable to lead to serious loss of confidence in the public service.
- (3) The offences mentioned in paragraph (2)(a) are—
 - (a) an offence of treason; and
 - (b) one or more offences under the Official Secrets Acts 1911 to 1989⁽³¹⁾ for which the pensioner has been sentenced on the same occasion to a term of imprisonment of, or to two or more consecutive terms amounting in the aggregate to, at least 10 years.
- (4) In determining whether the withdrawal of a pension, other than an injury pension, should—
 - (a) be permanent or temporary; and
 - (b) affect the pension in whole or in part,the Authority may make different determinations in respect of the secured and unsecured portions of the pension; but the secured portion may not be withdrawn permanently and may only be withdrawn temporarily for a period ending before the pensioner attains state pensionable age or one during which he is imprisoned or otherwise detained in legal custody.
- (5) The Authority may, to such extent as it thinks fit—
 - (a) apply for the benefit of any dependant of the pensioner's, or
 - (b) restore to the pensioner,so much of any pension as has been withdrawn under this article.

PART M

PAYMENT OF AWARDS AND FINANCIAL PROVISIONS

Payment of awards

- 99.—(1) While a pension or allowance is payable—
- (a) it is payable in respect of each week; and
 - (b) the Authority shall discharge its liability in respect of it by making payments in advance at such reasonable intervals as it may determine,
- but payment may be delayed to the extent necessary for determining any question as to the liability of the Authority.
- (2) Where a person dies after receiving a payment in advance in respect of a pension or allowance, no claim for repayment shall be made on the ground that the payment or any part of it is referable to a period after his death.
 - (3) Where, after receiving a payment in advance in respect of a pension under Part C, a surviving spouse or civil partner marries or forms a subsequent civil partnership, no claim for repayment shall be made on the ground that the payment of any part of it is referable to a period after the remarriage or, as the case may be, the formation of the new civil partnership.
 - (4) Subject to paragraphs (5) to (7), pensions under Part C and allowances under Part D (“survivors' benefits”) are payable from the date of the death.

(31) 1911 c. 28, 1920 c. 75, 1939 c. 121. 1989 c. 6

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

(6) Where the deceased—

- (a) was in receipt of a pension; and
- (b) died during a period in respect of which he had already received it,

no survivors' benefits are payable before the end of that period.

(7) Where the deceased received a gratuity, other than an injury gratuity under article 18, survivors' benefits are payable from the first anniversary of his death or such earlier date as the Authority, in the circumstances of the case, thinks fit.

(8) A gratuity shall be paid in one sum as soon as the entitlement to it arises, except that—

- (a) payment may be delayed to the extent necessary for determining any question as to the liability of the Authority; and
- (b) if the Authority is satisfied that it would be to the advantage of the person entitled, it may pay a gratuity in instalments of such reasonable amounts and over such reasonable period as it thinks fit.

(9) Where a person is entitled under article 20 to the repayment of his aggregate pension contributions, the Authority is not obliged to make payment—

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

whichever is the earlier.

Prevention of duplication

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

(2) A pension payable—

- (a) under article 23 to the beneficiary of an allocation;
- (b) under Part D (Awards on death – children);
- (c) under article 89 (guaranteed minimum pensions);
- (d) under article 94(5)(a) (secured portion of ill-health pension),
- (e) under article 85 (pension credit member's entitlement to pension)

is not a pension for the purposes of this article.

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

(4) For the purposes of this article, where a person is entitled—

- (a) under article 18 to an injury pension and also under article 15, 16, 17 or 19 to an ordinary, short service, ill-health or deferred pension; or
- (b) to a pension in respect of service as a member of the fire brigade and also to a pension as the surviving spouse or civil partner of such a member; or
- (c) to pensions as the surviving child of both parents who served as members of the fire brigade,

those pensions shall be treated as one.

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Payment of awards – supplementary

101.—(1) Any sum payable to a minor in respect of an award may, if the Authority thinks fit, be paid by it to such other person as it may determine, who shall, in accordance with any directions given by the Authority, apply it for the minor's benefit.

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

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

(3) On the death of a person to whom there was due in respect of an award a sum not exceeding the amount specified in any order for the time being in force under section 6 of the Administration of Estates (Small Payments) Act (Northern Ireland) 1967⁽³²⁾ and applying in relation to the death, the Authority may, as it thinks fit, without requiring the production of probate or any other proof of title—

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

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

- (a) it is in favour of a person other than a dependent of the person entitled to the award; or
- (b) it relates to a sum due in respect of the secured portion of an ordinary, short service, ill-health or deferred pension for a period beyond state pensionable age; or
- (c) to pensions as the surviving child of both parents who served as members of the fire brigade.

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

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

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

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

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

(32) 1967 c. 5 (N.I.)

(9) The Authority shall provide the person entitled to the award with certificate showing the amount withheld.

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

Prevention of duplication: other awards for spouses or civil partners, or children of persons who are both regular and retained firemen

102.—(1) This article applies where—

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

(2) The descriptions mentioned in this paragraph are:-

- (a) a spouse's or civil partner's ordinary pension under article 28;
- (b) a spouse's or civil partner's accrued pension under article 31;
- (c) a spouse's or civil partner's requisite benefit and temporary pension under article 33;
- (d) a spouse's or civil partner's award under article 34 (award where no other award is payable);
- (e) a child's ordinary allowance under article 38; and
- (f) a child's accrued allowance under article 41.

(3) The descriptions mentioned in this paragraph are:-

- (a) a spouse's or civil partner's special award under article 29 (whether or not by virtue of article 92(5));
- (b) a spouse's or civil partner's augmented award under article 30 (whether or not by virtue of article 92(5));
- (c) a child's special allowance under article 39 (whether or not by virtue of article 92(6)); and
- (d) a child's special gratuity under article 40 (whether or not by virtue of article 92(6)).

(4) Subject to paragraph (5), the award of the description in paragraph (2) shall be paid in full, and the award in paragraph (3) shall not be paid.

(5) Where the award of the description in paragraph (3) would be of greater value, that award shall be paid in full and the award of the description in paragraph (2) shall not be paid.

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PART N

SCHEME ADMINISTRATION, RECEIPTS AND EXPENSES

Scheme administrator for purposes of Part 4 of Finance Act 2004

103.—(1) For the purposes of Part 4 (pension schemes, etc) of the Finance Act 2004, the Minister with responsibility for the Department of Health, Social Services and Public Safety shall be the scheme administrator of this Scheme⁽³³⁾.

Expenses and receipts of the Authority

104. The Authority shall maintain an account showing all sums received or paid by them or for the purposes of this Scheme, or in consequence of rights acquired and obligations incurred by them under the 1973 Scheme and previous Firemen’s Pension Schemes.

PART O

SUPPLEMENTAL PROVISION

Transitional and other matters

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

(2) Nothing in Schedule 12 is intended to affect the general operation of section 28 of the Interpretation Act (Northern Ireland) 1954⁽³⁴⁾ (effect of repeal).”

“SCHEDULE 1

Article 1(1) and (2)

INTERPRETATION

PART

GLOSSARY OF EXPRESSIONS

<i>Expression</i>	<i>Meaning</i>
“Additional adoption leave”	Means leave under Article 107B of the Employment Rights (Northern Ireland) Order 1996 ⁽³⁵⁾ .
“Additional maternity leave”	Means leave under Article 105 of the Employment Rights (Northern Ireland) Order 1996 ⁽³⁶⁾ .
“Aggregate pension contributions”	Construe in accordance with article 6.

⁽³³⁾ 2004 c. 12 See section 270 for the meaning of “scheme administrator”

⁽³⁴⁾ 1954 c. 33 (N.I.)

⁽³⁵⁾ S.I. 1996/1919 (N.I. 16) Article 107B was inserted by S.I. 2002/2386 (N.I. 2) Article 3

⁽³⁶⁾ See S.I. 1999/2790 (N.I. 9), Part 1, Schedule 4

<i>Expression</i>	<i>Meaning</i>
“Amount”	In relation to a pension or allowance, its annual amount.
“Approved scheme”	Superannuation arrangements which— <ol style="list-style-type: none"> (a) are contained in a public general Act of Parliament or were made under such an Act by a Minister of the Crown; or (b) are contained in Northern Ireland legislation within the meaning of section 24 of the Interpretation Act 1978⁽³⁷⁾ or were made under such legislation by a Minister of the Crown (including a Northern Ireland Minister) or by a Northern Ireland ministry, department or head of department; or (c) are approved under Chapter I of Part XIV of the Income and Corporation Taxes Act 1988⁽³⁸⁾ and do not fall within section 591(2)(h) of that Act; or (d) provide for the payment of transfer values in respect of persons who become regular firemen calculated in like manner as under arrangements falling within paragraph (a).
“Award”	A pension, allowance, gratuity, grant or award by way of return of aggregate contributions.
“The Belfast Fire Brigade Scheme”	Any Scheme established under Section 13 of the Fire Services (Amendment) Act (Northern Ireland) 1950 ⁽³⁹⁾ .
“Brigade”	A fire brigade maintained under the Principal Order including one established under the Fire Services (Amendment) Act (Northern Ireland) 1950 and in existence on 30th September 1973.
“Cash equivalent”, “part cash equivalent”	The first expression means a cash equivalent mentioned in section 90(1) of the Pension Schemes (Northern Ireland) Act 1993 ⁽⁴⁰⁾ ; the second expression means the cash equivalent of any part of the benefits mentioned in that subsection which is prescribed under section 94(1) of that Act (continuation in employment after termination of pensionable service).
“Child”	In relation to a person who has died, a legitimate or illegitimate child, step- child

(37) 1978 c. 30
 (38) 1988 c. 1
 (39) 1950 c. 4(N.I.)
 (40) 1993 c. 49

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<i>Expression</i>	<i>Meaning</i>
	or adopted child of his; any other child who was substantially dependent on him and either is related to him or is the child of his spouse or civil partner. “Parent” is to be construed accordingly.
“Civil Partner”	Construe as in accordance with the definition in the Civil Partnership Act 2004 ⁽⁴¹⁾ .
“Club Scheme”	Superannuation arrangements which fall within (a), (b) or (d) of the definition of “approved scheme”.
“Disabled”, “disablement”, “permanently disabled”	Construe in accordance with article 8.
“Eligible person”	Construe in accordance with article 70.
“Half-rate service”	Construe in accordance with paragraph 1 (l) of Part III of Schedule 3.
“Independent qualified medical practitioner”	A medical practitioner holding a diploma in occupational medicine or an equivalent qualification issued by a competent authority in an EEA state (for the purposes of this definition “a competent authority” has the meaning given by the General and Specialist Medical Practice (Education, Training and Qualifications Order 2003) ⁽⁴²⁾ or being an Associate, a Member or a Fellow of the Faculty of Occupational Medicine ⁽⁴³⁾ or an equivalent institution of an EEA state.
“Injury”	Includes disease.
“Maternity leave”	Means ordinary maternity leave and additional maternity leave.
“Mixed-rate service”	Construe in accordance with paragraph 1(2) of Part III of Schedule 3.
“Normal benefit age”	The age of 60.
“Ordinary adoption leave”	Means leave under Article 107A of the Employment Rights (Northern Ireland) Order 1996 ⁽⁴⁴⁾ .
“Ordinary maternity leave”	Means leave under Article 103 of the Employment Rights (Northern Ireland) Order 1996.

⁽⁴¹⁾ 2004 c. 33

⁽⁴²⁾ S.I. 2003/1250, amended by S.I. 2004/1997.

⁽⁴³⁾ The Faculty of Occupational Medicine is a registered charity, no. 1035415.

⁽⁴⁴⁾ S.I. 1996/1919 (N.I.) 16 Article 107A was inserted by Article 3 of the Employment (Northern Ireland) Order 2002 (S.I. 2002/2836 (N.I.2))

<i>Expression</i>	<i>Meaning</i>
“the 1973 Scheme”	The Firemen’s Pension Scheme (Northern Ireland) 1973 (45) .
“the 1999 Act”	The Welfare Reform and Pensions Act 1999 (46) .
“the 1999 Order”	The Welfare Reform and Pensions Order (Northern Ireland) 1999 (47) .
“Parental leave”	This means leave under regulation 13(1) of the Maternity and Parental Leave etc. Regulations (Northern Ireland) 1999 (48) .
“Paternity leave”	This means leave under regulation 4 or 8 of the Paternity and Adoption (Northern Ireland) Regulations 2002. (49)
“Pension”	A pension under this Scheme.
“Pension credit”	A credit under Article 26(1)(b) of the 1999 Order or under section 29(1)(b) of the 1999 Act.
“Pension credit member”	Construe in accordance with Article 121(1) of Pensions (Northern Ireland) Order 1995 (50) .
“Pension debit”	A debit under Article 26(1)(a) of the 1999 Order or under section 29(1)(a) of the 1999 Act.
“Pension debit member”	A person whose benefits or future benefits under this Scheme have been reduced under Article 28 of the 1999 Order or section 31 of the 1999 Act.
“Pension sharing order”	An order or provision mentioned in Article 25(1) of the 1999 Order or section 28(1) of the 1999 Act.
“Pensionable pay”, “average pensionable pay”	Construe in accordance with article 65 above.
“Pensionable service”	Construe in accordance with article 53 above.
“Personal pension scheme”	The meaning given in section 1 of the Pension Schemes (Northern Ireland) Act 1993.
“Previous Scheme”	The Firemen’s Pension Scheme (Northern Ireland) 1971 (51) , the Fire Services (Fire Officers and Firemen) Pensions Order (Northern Ireland) 1955 (52) , the Fire Services

(45) Brought into operation by [S.R. & O. 1973 No. 393](#); amended by the other instruments listed in Schedule 2 to the Firemen Pension Scheme Order (Northern Ireland) 2006.

(46) [1999 c. 30](#)

(47) [S.I. 1999/3147 \(N.I. 11\)](#)

(48) [SR 1999 No. 471](#)

(49) [SR 2002 No. 377](#)

(50) [S.I. 1995/3213 \(N.I. 22\)](#) as amended by [S.I. 1999/3147 \(N.I. 11\)](#) Schedule 9 paragraph 50(3)

(51) [S.R. & O. \(N.I.\) 1971 No 33](#)

(52) [S.R. & O \(N.I.\) 1995 No 181 \(p.198\)](#)

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<i>Expression</i>	<i>Meaning</i>
	(Part-time Fire Officers and Firemen) Pensions Order (Northern Ireland) 1955 ⁽⁵³⁾ or any scheme maintained by the Council of the County Borough of Belfast under section 26(3) of the Fire Services Act (Northern Ireland) 1969 ⁽⁵⁴⁾ , as from time to time in force.
“Principal Order”	The Fire Services (Northern Ireland) Order 1984 ⁽⁵⁵⁾ .
“Qualifying injury”	Construe in accordance with article 7 above.
“Rank”	Includes the post of chief fire officer.
“Regular fireman”	In relation to any time before (date of operation), a regular fireman as defined in Article 7 of the 1973 Scheme. In relation to any time after 31st March 2006, a whole-time or part-time member of the fire brigade, other than a retained or volunteer fireman, appointed on terms under which he is or may be required to engage in fire-fighting or without a break in continuity of such an appointment may be required to perform another role appropriate to his rank which may no longer include engaging in firefighting and whose appointment is not a temporary one.
“Relative”	Spouse, surviving spouse, civil partner, or surviving civil partner, parent, grandparent or child, or any person who is a child of such relative.
“Relevant service in the armed forces”	Construe in accordance with article 10.
“Retained member of the Fire Brigade”	Construe in accordance with article 92.
“Retire”	Construe in accordance with article 14.
“Serviceman”	The meaning given in article 78(1).
“Service pension”	An armed forces pension or allowance payable in pursuance of a Royal Warrant or other instrument.
“Surviving spouse”	A widow or widower.
“Tax year”	The 12 months beginning with 6th April in any year.
“the Authority”	The Fire Authority for Northern Ireland, as established under the Principal Order.

⁽⁵³⁾ S.R. & O. (N.I.) 1995 No 182 (p. 233)

⁽⁵⁴⁾ 1969 c. 13 (N.I.)

⁽⁵⁵⁾ S.I. 1984/1821 (N.I. 11)

<i>Expression</i>	<i>Meaning</i>
“Volunteer member of the Fire Brigade”	Construe in accordance with article 92.
“War service”	Construe in accordance with paragraph 1 of Part II of Schedule 7.
“Weekly rate”	The weekly rate of a pension is its amount divided by 52 ¹ / ₆ th.

PART II

EXPRESSIONS RELATED TO NATIONAL INSURANCE AND SOCIAL SECURITY ACTS AND ORDERS

1. In this Scheme “employed contributor’s employment”, “graduated contribution”, “graduated retirement benefit”, “non-participating employment”, and “payment in lieu of contributions” have the meaning which they had for the purposes of the National Insurance Act (Northern Ireland) 1966⁽⁵⁶⁾ immediately before its repeal by the Social Security (Consequential Provisions) Act 1975⁽⁵⁷⁾.

2. In this Scheme “state pensionable age” means pensionable age as determined in accordance with the rules in paragraph 1 of Schedule 2 to the Pensions (Northern Ireland) Order 1995⁽⁵⁸⁾.

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

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

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

4.—(1) In this Scheme—

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

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

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

⁽⁵⁶⁾ 1966 c. 6 (N.I.)

⁽⁵⁷⁾ 1975 c. 18

⁽⁵⁸⁾ S.I. 1995/3213 (N.I. 22)

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

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

6. In this Scheme “contracted-out employment”, “contracted-out scheme”, “earnings factors”, “guaranteed minimum”, “guaranteed minimum pension” and “contributions equivalent premium” have the meanings which they have for the purposes of the Pension Schemes (Northern Ireland) Act 1993.

7. In this Scheme any reference to a case in which a contributions equivalent premium has been paid includes a reference to a case in which such a premium is payable but has not been paid by virtue of regulations under Schedule 1 to the Pension Schemes (Northern Ireland) Act 1993 dispensing with the payment of such a premium where its amount would be inconsiderable.

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

9. In the case of a person entitled to reckon a period of pensionable service by virtue of service or employment in Great Britain in respect of which he was subject to superannuation arrangements, this Scheme has effect as if any reference to the National Insurance Act (Northern Ireland) 1966 or the Pension Schemes (Northern Ireland) Act 1993 included a reference to any enactment of the Parliament of the United Kingdom making provision for corresponding purposes.

SCHEDULE 2

PERSONAL AWARDS

Articles 15(3) and 21(6)

PART I

ORDINARY PENSION

Subject to Parts IV, VIII and IX, the amount of an ordinary pension is—

$$((30xA) / 60) + (2x((AxB) / 60))$$

where—

A is the person’s average pensionable pay,

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

Articles 16(2) and 21(6)

PART II

SHORT SERVICE PENSION

Subject to Parts IV, VIII and IX the amount of a short service pension is—

$$((AxB) / 60) + (2x(AxC) / 60)$$

where—

A is the person's average pensionable pay,

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

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

Articles 17 and 21(6)

PART III

ILL-HEALTH PENSION

1.—(1) Paragraphs 2 to 5 have effect subject to Parts IV, VIII and IX, and paragraphs 3 and 4 have effect subject to paragraph 5.

(2) In paragraphs 2 to 4, A is the person's average pensionable pay.

2. Where the person has less than 5 years' pensionable service, the amount of the ill-health pension is—

$$(AxB) / 60$$

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

3. Where the person has at least 5 but not more than 10 years' pensionable service, the amount of the ill-health pension is—

$$(2x(AxC)) / 60$$

where C is the period in years of his pensionable service.

4. Where the person has more than 10 years' pensionable service, the amount of the ill-health pension is the greater of—

$$(20xA) / 60$$

and—

$$((7xA) / 60) + ((AxD) / 60) + (2x(AxE) / 60)$$

where—

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

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

5.—(1) Where—

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

(b) the amount calculated in accordance with paragraph 3 or 4 exceeds the amount of the notional retirement pension,

the amount of the ill-health pension is that of the notional retirement pension.

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

Articles 5(4) and 27

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PART IV

CALCULATION OF AWARDS FOR PART-TIME SERVICE

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

- (a) ordinary pension under Part I,
- (b) short-service pension under Part II,
- (c) ill-health pension under Part III,
- (d) injury gratuity under Part VI
- (e) injury pension under Part VI, and
- (f) deferred pension under Part VII,

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

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

$$(Ax(B + C))/60$$

where—

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

B is the period in years of his pensionable service as a part-time member of the fire brigade;

C is the period in years of his pensionable service as a part-time member of the fire brigade, expressed as a fraction, where the numerator is the total number of contractual hours during the part-time service and the denominator is the number of contractual hours for one year of whole-time service; and

D is the period in years of his pensionable service

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

Articles 16(2) and 17(2)

PART V

SHORT SERVICE OR ILL-HEALTH GRATUITY

1. Where the person's pensionable service is less than one year, the amount of the gratuity is that of his aggregate pension contributions.

2. Where the person's pensionable service is one year or more, the amount of the gratuity is the greater of—

- (a) his aggregate pension contributions; and
- (b) 1/12th of his average pensionable pay multiplied by the period in years of his pensionable service.

3. Where the person ceased to serve after the beginning of the tax year in which he attains state pensionable age, the gratuity calculated in accordance with paragraph 1 or 2 shall be reduced by the capitalised value, as calculated by the Government Actuary, of any pension paid to him under article 89 (guaranteed minimum).

Articles 18(2) and (3) and 51(4) and 91(7)

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PART VI

INJURY GRATUITY AND INJURY PENSION

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

(2) In the headings in the Table references to relevant service are references to service which either was, or would, but for an election under article 68 or a failure to elect under article 67, have been, reckonable as pensionable service

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

2.—(1) The amount of a person's injury pension calculated in accordance with paragraph 1 shall be reduced by three quarters of the amount of any other pension calculated by reference to pensionable service reckonable by virtue of the period of service during which he received the qualifying injury or, where an election under article 68 had effect or a failure to elect under article 67, by the amount of any other pension which would otherwise have been so calculated.

(2) For the purposes of sub-paragraph (1) any reduction of the other pension under article 21 or 23 (commutation and allocation) or under Part IX or by virtue of a pension debit shall be disregarded.

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

(2) The additional benefits are—

- (a) so much of any disablement pension under section 103 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 ("the 1992 Act") as relates to the qualifying injury, together with any relevant increase;
- (b) so much of any reduced earnings allowance under paragraph 11 of Schedule 7 to the 1992 Act as relates to the qualifying injury; and

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(c) until the material date, any benefit mentioned in sub-paragraph (3), together with any relevant increase.

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

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

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

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

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

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

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

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

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

5.—(1) This paragraph applies where a person who becomes entitled to an injury pension—

- (a) received the qualifying injury during a period of sickness which included 1st April 1972 or ended before 1st July 1973; and
- (b) is entitled to reckon less than 5 years' pensionable service,

and the provisions as to calculation and payment that were contained in Article 15 (special pensions) of the Firemen's Pension Scheme (Northern Ireland) 1971 ("the 1971 provisions")⁽⁵⁹⁾ would have been more favourable to him than those of paragraphs 1 to 4.

(2) Where this paragraph applies—

- (a) paragraphs 1 to 4 shall not apply; and

⁽⁵⁹⁾ S. R. & O. (N.I.) 1971 No 33

(b) the injury pension shall be calculated and payable as if the 1971 provisions had continued in operation and had applied in his case.
Articles 19(2) and (3) and 21(6)

PART VII DEFERRED PENSION

1.—(1) Paragraph 2 has effect subject to Parts IV, VIII and IX.

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

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

$$(40xA) / 60$$

and—

$$(BxC) / D$$

where—

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

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

D is the period in years of his notional service.

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

$$((Ax E) / 60) + (2x(AxF) / 60)$$

where—

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

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

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

(a) he could retire with a maximum ordinary pension (disregarding article 15(2)); or

(b) he reached normal pension age,

whichever is the earlier.

Article 24(a)

PART VIII REDUCTION OF PENSION AT STATE PENSIONABLE AGE

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

(2) Subject to sub-paragraphs (4) to (6), in the case of a person who elected to pay pension contributions at the lower rate under paragraph 36(3) of the Schedule to the Fire Services

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(Fire Officers and Firemen) Pensions Order (Northern Ireland) 1955(60), the annual rate of the reduction is that obtained by multiplying the sum ascertained from the Table below by the length in years of the period of pensionable service in respect of which he paid reduced contributions (“the relevant period”).

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

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

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

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

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

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

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

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

- (a) which was in operation when the person left the former service; and
- (b) the effect of which is that pensions payable under the arrangements are to be reduced in connection with the operation of the National Insurance Act 1959⁽⁶¹⁾ or of any provision of the National Insurance Act (Northern Ireland) 1966⁽⁶²⁾ relating to graduated contributions or graduated retirement benefit.

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

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

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

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

4.—(1) Where a person—

- (a) is in receipt of the secured portion of an ill-health pension the unsecured portion of which has been terminated in the circumstances mentioned in article 94; and

⁽⁶¹⁾ 1959 c. 47
⁽⁶²⁾ 1966 c. 6 (N.I.)

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- (b) is also in receipt of an ordinary, short service, ill-health or deferred pension (“the second pension”) for the purposes of which he is entitled to reckon the period of pensionable service reckonable for the purposes of the ill-health pension, the unsecured portion of the second pension shall, in respect of any period beyond state pensionable age, be reduced in accordance with this paragraph.
- (2) The annual rate of the reduction is that of the secured portion of the ill-health pension. Articles 24(a) and 51(4)

PART IX

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

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

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

- (a) by reason of regular service after 31st March 1972; or
- (b) by reason of regular service before 1st April 1972, in respect of which he has paid pension contributions at a rate related to 6% of his pensionable pay, or
- (c) by virtue of article 62 (receipt of transfer value).

(2) Where the man was a regular fireman to whom Article 53 or 54 of the 1973 Scheme applied (that is to say, where on 1st October 1973 either he was in regular service or, having retired after 31st March 1972, he was entitled to a pension) and he last paid pension contributions before 1st April 1972 at a rate related to 5% of his pensionable pay, this paragraph shall not apply unless—

- (a) he elected or agreed, under Article 53(2)(b) or (4)(a) or 54(2)(b) of the 1973 Scheme, that his pension be reduced; or
- (b) pensionable service became reckonable by him after 1st April 2006 by virtue of article 57 (previous service reckonable on payment).

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

- (a) pensionable service reckonable as mentioned in sub-paragraph (1); and
- (b) where (subject to articles 57(5) and 58(2)) he elected under Article 52(3) or 53(3) of the 1973 Scheme to pay further contributions or to make further payment by way of a lump sum, pensionable service reckonable by him immediately before 1st October 1973 otherwise than by reason of regular service after 31st March 1972.

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

- (a) by reason of regular service after 31st March 1972; or
- (b) by virtue of article 62.

(2) Where the man was a regular fireman to whom Article 53 or 54 of the 1973 Scheme applied, this paragraph shall not apply unless—

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- (a) he elected or agreed, under articles 57(3)(b) or 57(4)(b) above or Article 54(3)(b) of the 1973 Scheme, that his pension be reduced; or
- (b) pensionable service became reckonable by him after 31st March 2006 by virtue of article 57.

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

- (a) pensionable service reckonable as mentioned in sub-paragraph (1); and
- (b) where (subject to articles 57(5) and 58(2)) he elected under Article 52(2) or 53(2) of the 1973 Scheme to pay additional contributions or to make an additional payment by way of a lump sum, pensionable service reckonable by him immediately before 1st October 1973 otherwise than by reason of regular service after 31st March 1972.

4. In calculating the amount of a reduction in a pension under paragraph 2 or 3 no account shall be taken of any reduction in the amount of the pension under one or the other of those paragraphs or under article 21 or 23 (commutation and allocation) or Part VIII.

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

Percentage reduction in pension

<i>Completed years of pensionable service taken into account</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

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<i>Completed years of pensionable service taken into account</i>	<i>Under paragraph 2</i>	<i>Under paragraph 3</i>
19	2.7	2.0
20	2.8	2.1
21	2.9	2.1
22	3.0	2.2
23	3.1	2.2
24	3.2	2.3
25	3.2	2.3
26	3.3	2.4
27	3.4	2.4
28	3.4	2.5
29	3.5	2.5
30 or more	3.5	2.5

6.—(1) Where a man entitled to an ordinary pension was, immediately before he retired, paying additional or further contributions in pursuance of an election under Article 52(2) or (3) of the 1973 Scheme, the annual amount of the ordinary pension shall, for the appropriate period, be reduced by the annual amount of those contributions immediately before his retirement, calculated by reference to his pensionable pay at that time.

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

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

SCHEDULE 3

AWARDS ON DEATH – SPOUSES OR CIVIL PARTNERS

Articles 28(2) and 52(1)

PART I

SPOUSE'S OR CIVIL PARTNER'S ORDINARY PENSION

- 1.—(1) Subject to paragraph 2, the amount of an ordinary pension is the greater of—
- (a) half the amount of the base pension described in sub-paragraph (2); and
 - (b) the amount of a requisite benefit pension calculated in accordance with Part V.
- (2) The base pension mentioned in sub-paragraph (1)(a) is—
- (a) where article 28(1)(a) applies, the ill-health pension to which the deceased would have been entitled had he retired with such a pension immediately before he died;

- (b) where article 28(1)(b) applies, the ordinary, short service or ill-health pension the deceased was receiving;
- (c) where article 28(1)(c) applies, the ill-health pension which the deceased would have been receiving if he had not ceased to be entitled to it; and
- (d) where article 28(1)(d) applies, the ill-health pension to which the deceased would have been entitled had he retired in circumstances entitling him to such a pension,

disregarding, in each case, the provisions for reduction contained in article 21(9) (commutation), article 23(11) (allocation) and Parts VIII and IX of Schedule 2 (reduction of pension at state pensionable age and related to up-rating of widow's pensions) but taking into account the provisions of Part IV of Schedule 2 (calculation of awards for part-time service).

2. For any period in respect of which the surviving spouse or civil partner so elects, the amount of the ordinary pension shall be calculated in accordance not with paragraph 1 but with article 52 (flat-rate award).

Articles 29(2) and 30(4)

PART II

SPOUSE'S OR CIVIL PARTNER'S SPECIAL PENSION

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

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

(2) In making the calculation mentioned in sub-paragraph (1), for the value of A there shall be substituted "A is the amount calculated under paragraph 1 of Part II of Schedule 3 if the average pensionable pay was the pay the deceased would have received if he had been a whole-time member of the fire brigade."

Article 31(3) and 52(1)

PART III

SPOUSE'S OR CIVIL PARTNER'S ACCRUED PENSION

1.—(1) For the purposes of this Part, half-rate service comprises—

- (a) pensionable service reckonable by virtue of service as a regular fireman after 31st March 1972;
- (b) pensionable service reckonable by virtue of article 62 (receipt of transfer value);
- (c) pensionable service reckonable by virtue of article 83;
- (d) any period of pensionable service of less than a year taken into account in making any calculation required as a result of an election under Article 52(3) of the 1973 Scheme or in calculating a reduction in pension under paragraph 3 of Part IX of Schedule 2;
- (e) the appropriate fraction of any longer period taken into account in calculating such a reduction;
- (f) the appropriate fraction of any pensionable service taken into account in calculating further contributions payable pursuant to an election under Article 52(3) of the 1973

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Scheme which the deceased was continuing to pay as required by article 69 immediately before he retired; and—

- (g) any pensionable service taken into account in calculating a further payment by way of a lump sum made by him pursuant to an election under Article 53 of the 1973 Scheme.
- (2) For the purposes of this Part, mixed-rate service comprises—
- (a) pensionable service reckonable by virtue of service as a regular fireman in respect of which the deceased paid contributions at a rate related to 6% of his pensionable pay;
 - (b) pensionable service falling within sub-paragraph (1)(a) to (c);
 - (c) any period of pensionable service of less than a year taken into account in making any calculation required as a result of an election under Article 52(2), or of one the effect of which was preserved by Article 51, of the 1973 Scheme, or in calculating a reduction in pension under paragraph 2 of Part IX of Schedule 2;
 - (d) the appropriate fraction of any longer period taken into account in calculating such a reduction;
 - (e) the appropriate fraction of any pensionable service taken into account in calculating additional contributions payable pursuant to an election under Article 52(2), or to one the effect of which was preserved by Article 51, of the 1973 Scheme which the deceased was continuing to pay as required by article 69 immediately before he died; and
 - (f) any pensionable service taken into account in calculating an additional payment by way of a lump sum made by him pursuant to an election under Article 53(3) of the 1973 Scheme.
- (3) For pensionable service falling within sub-paragraph (1)(e) or sub-paragraph (2)(d) the appropriate fraction is—

$$(A/B)$$

where—

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

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

- (4) The material date is—
- (a) for the purposes of sub-paragraph (1)(e), 31st March 1972; and
 - (b) for the purposes of sub-paragraph (2)(d), 25th August 1966.
- (5) For pensionable service falling within sub-paragraph (1)(f) or (2)(e) the appropriate fraction is—

$$(C/D)$$

where—

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

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

- (6) The period is the greater of—
- (a) 5 years; and
 - (b) 25 years less the period of pensionable service the deceased was entitled to reckon on the relevant date.
- (7) The relevant date is—

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- (a) where the deceased last served as a regular fireman before 1st October 1978, the date on which he elected to pay the contributions; and
 - (b) in any other case, the date from which the contributions became payable.
- (8) The periods mentioned in sub-paragraphs (3) and (6)(b) are to be counted in complete years and months.

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

- (a) 1/6th of the deceased's deferred pension multiplied by the appropriate fraction of his half-rate service; and
 - (b) 1/3rd of his deferred pension multiplied by the appropriate fraction of his mixed-rate service.
- (2) The appropriate fraction is—
- (A/B)

where—

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

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

(3) In calculating the deceased's deferred pension for the purposes of this paragraph account shall be taken of Part IV of Schedule 2 (calculation of awards for part-time service), but no account shall be taken of—

- (a) article 19(5) (restriction on payment); or
- (b) article 21(9) or 23(11) or Part VIII or IX of Schedule 2 (reduction in various circumstances).

3.—(1) Subject to sub-paragraphs (2) and (3), for any period in respect of which a surviving spouse or civil partner so elects, the amount of the accrued pension shall be calculated in accordance not with paragraphs 1 and 2 but with article 52 (flat rate award).

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

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

(3) This paragraph does not apply where an election made by the deceased under article 68 had effect at the time of his death.

Article 32(2)

PART IV

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

1.—(1) Where the surviving spouse or civil partner would otherwise have been entitled to an ordinary pension under article 28 or a special award under article 29, the amount of the pension under article 32 shall, subject to sub-paragraph (2), be calculated in accordance with paragraph 1 of Part I in the same way as that of an ordinary pension.

- (2) For the purposes of this paragraph, paragraph 1 of Part I has effect—

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- (a) as if the reference in sub-paragraph (1)(a) to the base pension were a reference to the appropriate proportion of the base pension; and
- (b) where the surviving spouse or civil partner would otherwise have been entitled to a special award under article 29, as if the base pension were the ill-health pension to which the deceased would have been entitled if he had, when he ceased to serve, retired because he was disabled in circumstances entitling him to such a pension.

2.—(1) Where the surviving spouse or civil partner would otherwise have been entitled to an accrued pension under article 31, the amount of the pension under article 32 shall, subject to sub-paragraph (2), be calculated in accordance with Part III in the same way as that of an accrued pension.

(2) For the purposes of this paragraph, paragraph 2 of Part III has effect as if references to the deceased's deferred pension were references to the greater of—

- (a) the appropriate proportion of the deferred pension; and
- (b) subject to paragraph (3), 1/160th of the deceased's average pensionable pay multiplied by the period in years of so much of his pensionable service as is reckonable by virtue of service or employment after 5th April 1978 (his "relevant pensionable service").

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

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

3. The appropriate proportion mentioned in paragraphs 1 and 2 is the proportion which the deceased's relevant pensionable service bears to his total pensionable service.
Articles 33(4) and 35(2)

PART V

SPOUSE'S OR CIVIL PARTNER'S REQUISITE BENEFIT PENSION

1. Subject to paragraph 2, the amount of a requisite benefit pension is 1/160th of the deceased's average pensionable pay multiplied by the period in years of so much of his pensionable service as is reckonable by virtue of service or employment after 5th April 1978.

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

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

SCHEDULE 4

AWARDS ON DEATH – CHILDREN

Articles 38(2) and 52(1)

PART I

CHILD'S ORDINARY ALLOWANCE

1.—(1) Subject to paragraphs 2 and 3, the amount of an ordinary allowance is the appropriate percentage of the base pension described in sub-paragraph (4).

(2) Where one of the child's parents is alive—

- (a) if fewer than 3 ordinary allowances are payable in respect of the death, the appropriate percentage is 18.75; and
- (b) if 3 or more ordinary allowances are payable, the appropriate percentage is 37.5 divided by the number of allowances.

(3) In respect of any period during which neither of the child's parents is alive—

- (a) if fewer than 3 ordinary allowances are payable in respect of the death, the appropriate percentage is 25; and
- (b) if 3 or more ordinary allowances are payable, the appropriate percentage is 50 divided by the number of allowances.

(4) The base pension mentioned in sub-paragraph (1) is—

- (a) where article 38(1)(a) applies, the ill-health pension to which the deceased would have been entitled had he retired with such a pension immediately before he died;
- (b) where article 38(1)(b) applies, the ordinary, short service or ill-health pension the deceased was receiving;
- (c) where article 38(1)(c) applies, the ill-health pension which the deceased would have been receiving if he had not ceased to be entitled to it; and
- (d) where article 38(1)(d) applies, the ill-health pension to which the deceased would have been entitled had he retired in circumstances entitling him to such a pension,

disregarding, in each case, the provisions for reduction contained in article 21(9) (commutation), article 23(11) (allocation) and Parts VIII and IX of Schedule 2 (reduction of pension at state pensionable age and related to up-rating of widow's pensions) but taking into account of Part IV of Schedule 2 (calculation of awards for part-time service).

2.—(1) Where—

- (a) the deceased died while entitled to a pension other than a deferred pension; and
- (b) a surviving spouse's or civil partner's ordinary pension is payable; and
- (c) in respect of any week the survivor's benefit rate would otherwise exceed the final pension rate,

any children's ordinary allowances calculated in accordance with paragraph 1 shall be reduced by the factor necessary to secure that the survivors' benefit rate equals the final pension rate.

(2) The survivors' benefit rate is the aggregate of the rates of the spouse's or civil partner's ordinary pension and the children's ordinary allowances calculated in accordance with paragraph 1, and the final pension rate is the rate at which the deceased's pension was last payable,

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disregarding any reduction in it except a reduction under article 21(9) (commutation), article 23(11) (allocation) or paragraph 2 of Part VI of Schedule 2 (reduction in injury award).

3. For any period in respect of which a person to whom a child's ordinary allowance which would otherwise fall to be calculated in accordance with paragraph 1 is paid so elects, the amount of the allowance shall be calculated in accordance not with paragraph 1 but with article 52 (flat-rate award).

Article 39(2)

PART II

CHILD'S SPECIAL ALLOWANCE

1. Subject to paragraph 4, the amount of a special allowance is the appropriate percentage of the deceased's average pensionable pay.

2. Where one of the child's parents is alive—

- (a) if fewer than 5 special allowances are payable in respect of the death, the appropriate percentage is 10; and
- (b) if 5 or more special allowances are payable, the appropriate percentage is 40 divided by the number of allowances.

3. In respect of any period during which neither of the child's parents is alive—

- (a) if fewer than 5 special allowances are payable in respect of the death, the appropriate percentage is 20; and
- (b) if 5 or more special allowances are payable, the appropriate percentage is 80 divided by the number of allowances.

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

(2) In making the calculation mentioned in sub-paragraph (1), for the value of A there shall be substituted "A is the amount calculated under paragraphs 1 to 3 of Part II of Schedule 4 if the average pensionable pay was the pay the deceased would have received had he been a whole-time member of the fire brigade".

Articles 41(2) and 52(1)

PART III

CHILD'S ACCRUED ALLOWANCE

1.—(1) Subject to sub-paragraph (2) and to paragraphs 2 to 5 the amount of an accrued allowance shall be calculated in accordance with paragraphs 1 and 3 of Part I as if it were an ordinary allowance to which the child was entitled.

(2) Where an election made by the deceased under article 68 had effect at the time of his death, paragraph 3 of Part I (election for flat-rate allowance) does not have effect for the calculation under this Part of an accrued allowance.

2. Except where paragraph 3 applies, for the purposes of paragraph 1, paragraph 1 of Part I has effect with the substitution for references to the base pension of references to the deceased's deferred pension.

3.—(1) This paragraph applies where the deceased was the child's father and was entitled to reckon pensionable service otherwise than by virtue of—

- (a) service as a regular fireman after 31st March 1972; or
- (b) article 83 (servicemen).

(2) Where this paragraph applies, for the purposes of paragraph 1, paragraph 1 of Part I has effect with the substitution for references to the base pension of references to the appropriate proportion of the deceased's deferred pension.

(3) The appropriate proportion is that which his half-rate service bears to his total pensionable service.

4. In calculating the deceased's deferred pension for the purposes of paragraph 2 or 3 account shall be taken of Part IV of Schedule 2 (calculation of awards for part-time service), but no account shall be taken of—

- (a) article 19(5) (restriction on payment); or
- (b) article 21(9) or 23(11) or Part VIII or IX of Schedule 2 (reduction in various circumstances).

5. Where one of the parents is alive and in respect of any week the aggregate of—

- (a) the surviving spouse's or civil partner's accrued pension; and
- (b) the accrued children's allowances,

exceeds the rate at which the deceased's deferred pension was last payable, or would have been payable if he had attained the age of 60 ("the final pension rate"), the allowances shall be reduced by the factor necessary to secure that the aggregate equals the final pension rate.

Article 42(5)

PART IV

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

1.—(1) Subject to sub-paragraph (2), this Part applies where a child entitled to an allowance under article 38, 39 or 41 ("the relevant allowance")—

- (a) is undergoing full-time vocational training within the meaning of article 42; and
- (b) is receiving in respect of that training remuneration at an annual rate which exceeds the rate specified in paragraph 3(1) ("the specified rate").

(2) Where the deceased died or ceased to be a regular fireman before 10th October 1983, this Part applies only when the child has attained the age of 19.

2.—(1) Where this Part applies—

- (a) if the amount by which the annual rate of the remuneration exceeds the specified rate ("the excess remuneration") is the same as or larger than the effective amount of the relevant allowance, the allowance shall not be paid; and
- (b) in any other case, the amount of the relevant allowance shall be reduced by that of the excess remuneration.

(2) Where other children are also entitled to allowances and one of the relevant provisions, that is to say paragraph 1(2)(b) and (3)(b) of Part I and paragraphs 2(b) and 3(b) of Part II applies—

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- (a) where sub-paragraph (1)(a) applies, each of the other allowances shall be re-calculated as if there were no entitlement to the relevant allowance; and
 - (b) where sub-paragraph (1)(b) applies, each of the other allowances shall be increased by the amount of the excess remuneration divided by the number of those allowances.
- (3) Notwithstanding anything in sub-paragraph (2)—
- (a) no child shall by virtue of that sub-paragraph receive an allowance greater than that to which he would be entitled if no relevant provision applied in his case; and
 - (b) the total of the effective amounts of the allowances to be paid under a relevant provision shall not by virtue of that sub-paragraph exceed what would otherwise have been payable under the relevant provision.

3.—(1) The specified rate is the annual rate (rounded up to the nearest £1) at which an official pension, within the meaning of the Pensions (Increase) Act (Northern Ireland) 1971 (“the 1971 Act”), would for the time being be payable if it had begun, and first qualified for increases under the 1971 Act, on 1st June 1972 and had been payable at an annual rate of £250.

(2) The effective amount of an allowance is its amount together with that of any increase in it under the 1971 Act.

SCHEDULE 5

Article 45(4)

ADULT DEPENDENT RELATIVE'S SPECIAL PENSION

1. Subject to paragraphs 2 and 3, the amount of the pension—
- (a) while a surviving spouse or civil partner is alive, is 20%; and
 - (b) in any other case, is 45%,

of the deceased’s average pensionable pay.

- 2.—(1) For any week for which the total of—
- (a) any spouse’s or civil partner’s special pension; and
 - (b) any child’s special allowance,

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

- (2) For any week for which the total of the special pension and—
- (a) any widow’s or civil partner’s special pension; and
 - (b) any child’s special allowances,

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

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

(2) In making the calculation mentioned in sub-paragraph (1), for the value of A there shall be substituted—

“A is the average pensionable pay the deceased would have received had he been a whole-time member of the fire brigade.”

SCHEDULE 6

Articles 6(2), 56(1) to (4) and (7) and 57(1)

PENSIONABLE SERVICE AND TRANSFER VALUES

PART I

PAYMENTS IN RESPECT OF PREVIOUS SERVICE

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

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

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

(a) retires and does not become entitled to an award other than one under article 20 (repayment of aggregate pension contributions); or

(b) dies,

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

(4) If before he has paid the whole of the amount he retires and becomes entitled to an award other than one under article 20, the Authority may deduct the balance then outstanding from payments of any award payable to him.

2.—(1) Subject to sub-paragraph (2), the sum referred to in article 57(3)(c) is

$$A \times B \times C$$

, where—

A is the person’s annual pensionable pay at the time when he again became a regular fireman or if he is a part-time member of the fire brigade, the annual pensionable pay he would have received had he been a whole-time member,

B is the factor ascertained from the Table by reference to his age at that time, and

C is the number of complete years he was entitled to reckon as pensionable service when he retired.

Table

Age	Factor
Under 38	0.0950
38	0.0960
39	0.0970
40	0.0980
41	0.0990
42	0.1005
43	0.1020

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Age	Factor
44	0.1040
45	0.1055
46	0.1070
47	0.1090
48	0.1105
49	0.1125
50	0.1140
51	0.1160
52	0.1180
53	0.1200
54	0.1230
55 and over	0.1260

(2) The sum calculated in accordance with sub-paragraph (1) shall be reduced by half of any amount which, if article 57(1) had applied and a sum had been payable under article 63 (transfer payments between fire authorities), would for the purpose of calculating that sum have constituted $(C \times D)$ in the formula set out in paragraph 2 of Part III.
Article 62(5)

PART II

SERVICE RECKONABLE ON RECEIPT OF TRANSFER VALUE

1.—(1) If the previous scheme is a club scheme, the period reckonable as pensionable service is one equal to the period that would enable the Authority to pay a transfer value, calculated on the cash equivalent basis, of the same amount as the sum received.

(2) A transfer value is calculated on the cash equivalent basis if it is calculated in the manner prescribed under section 93(1) of the Pension Schemes (Northern Ireland) Act 1993(63) for the calculation of cash equivalents.

(3) In calculating the period any sum representing interest that is included in the transfer value received is not to be taken into account.

2.—(1) Subject to paragraph 3, if the previous scheme is not a club scheme the period reckonable as pensionable service is that specified in sub-paragraph (2).

(2) The period is—

$$((A + B + C)/(D + E))\text{years}$$

where—

A is the amount of the transfer value divided by the market level indicator for the month in which the material date occurred,

(63) 1993 c. 49

B is any amount in respect of graduated National Insurance modification notified by the scheme managers of the previous scheme,

C is 52 times the amount in respect of the person's guaranteed minimum multiplied by the minimum pension factor,

D is 1/45th of the rate of his annual pensionable pay at the material date multiplied by the pension factor, and

E is 1/90th of the rate of his annual pensionable pay at the material date multiplied by the surviving spouse's or civil partner's pension factor.

(3) The market level indicator for a month is to be ascertained from tables provided by the Government Actuary by reference to—

- (a) the person's age at the material date; and
- (b) the average gross redemption yield on the first working day of the month, ascertained from the FT-Actuaries Share indices published in the Financial Times newspaper, on British Government index-linked stocks redeemable after 5 years or more, assuming inflation at 5 per cent (interpolating where that yield is not an integral percentage).

(4) The amount in respect of the person's guaranteed minimum is

$F + G$

where—

F is so much of his guaranteed minimum as is attributable to service before 6th April 1988, and

G is half of so much of it as is attributable to service after 5th April 1988.

(5) The material date—

- (a) if the transfer value was received within 12 months after the date on which the person became a regular fireman, is that date; and
- (b) in any other case, is the date on which the transfer value was received.

(6) The factors are to be ascertained from tables provided by the Government Actuary by reference to the person's age on the material date.

3. If—

- (a) the previous scheme is not a club scheme; and
- (b) the person became a regular fireman before 1st January 1986,

the period reckonable as pensionable service is one calculated as if paragraphs 1 to 4 of Part II of Schedule 7 to the 1973 Scheme and Part III of that Schedule, as in operation on 31st March 2006, had continued in operation.

4. In this Part—

- (a) annual pensionable pay, in the case of a part-time member of the fire brigade, is the pay the person would have received had he been a whole-time member; and
- (b) periods of reckonable pensionable service shall be treated as periods of whole-time service.

Article 63(1)

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PART III

TRANSFER PAYMENTS BETWEEN FIRE AUTHORITIES

1. Subject to paragraphs 4, 5, 7 and 8, the sum payable is the total of the basic element and the spouse's or civil partner's element.

2. The basic element is
 $(A \times B) - (C \times D)$

, where—

A is the annual amount of the deferred pension to which the person would have been entitled had he become entitled to one on retiring from the first brigade (“the notional pension”),

B is the pension factor,

C is any annual amount by which such a deferred pension would have been reduced at state pensionable age under paragraphs 1 to 3 of Part VIII of Schedule 2, and

D is the National Insurance factor.

3. The spouse's or civil partner's element is
 $E \times F$

, where—

E is the annual amount of the accrued pension to which a surviving spouse or civil partner would become entitled on the death of a person entitled to a deferred pension equal to the notional pension, and

F is 4 in the case of a man and 1.1 in the case of a woman.

4.—(1) If when he retired from the first brigade the person had a guaranteed minimum in relation to a pension provided by this Scheme, the sum calculated in accordance with paragraphs 1 to 3 is reduced by

$G \times H$

, where—

G is 52.18 times the guaranteed minimum, and

H is the minimum pension factor.

(2) If a contributions equivalent premium has been paid in respect of the person and has not been repaid, the sum calculated in accordance with paragraphs 1 to 3 is reduced by the amount of that premium.

5. If—

(a) the person had undertaken to make payments in accordance with paragraph 1 of Part I; and

(b) not all the instalments had been paid when he retired from the first brigade,

the sum calculated in accordance with paragraphs 1 to 3 is reduced by the actuarial equivalent of the unpaid instalments calculated, in accordance with tables provided by the Government Actuary, by reference to the amount of each instalment, the interval at which instalments were payable and the number of unpaid instalments.

6.—(1) The factors referred to in paragraphs 2 and 4 are to be ascertained from the Table by reference to the person's age on retiring from the first brigade.

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Table

Age	Men Pension factor	National Insurance factor	Minimum pension factor	Women Pension factor	National Insurance factor	Minimum pension factor
Less than 20	5.00	0.25	1.47	7.00	0.50	2.20
20	5.05	0.25	1.50	7.05	0.50	2.24
21	5.10	0.25	1.53	7.10	0.55	2.28
22	5.15	0.30	1.56	7.15	0.60	2.32
23	5.20	0.30	1.59	7.20	0.65	2.36
24	5.25	0.30	1.62	7.25	0.70	2.40
25	5.30	0.35	1.65	7.35	0.75	2.45
26	5.35	0.40	1.68	7.40	0.80	2.50
27	5.40	0.40	1.71	7.45	0.85	2.55
28	5.45	0.45	1.74	7.50	0.90	2.60
29	5.50	0.50	1.78	7.55	0.95	2.66
30	5.55	0.50	1.81	7.65	1.05	2.71
31	5.60	0.55	1.85	7.70	1.15	2.77
32	5.65	0.60	1.88	7.80	1.25	2.82
33	5.70	0.65	1.92	7.90	1.35	2.88
34	5.75	0.70	1.95	7.95	1.45	2.93
35	5.80	0.80	1.99	8.05	1.55	2.99
36	5.85	0.90	2.02	8.15	1.65	3.05
37	5.90	1.00	2.06	8.25	1.75	3.11
38	5.95	1.10	2.10	8.35	1.85	3.17
39	6.00	1.20	2.14	8.45	1.95	3.24
40	6.05	1.30	2.18	8.55	2.10	3.31
41	6.10	1.40	2.22	8.65	2.25	3.38
42	6.15	1.50	2.26	8.75	2.45	3.45
43	6.20	1.60	2.30	8.85	2.65	3.52
44	6.25	1.70	2.34	8.95	2.90	3.59
45	6.30	1.80	2.39	9.05	3.15	3.66
46	6.40	1.90	2.44	9.15	3.40	3.74
47	6.50	2.00	2.48	9.25	3.70	3.82
48	6.60	2.20	2.53	9.35	4.00	3.90
49	6.70	2.40	2.58	9.45	4.35	3.98

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Age	Men Pension factor	National Insurance factor	Minimum pension factor	Women Pension factor	National Insurance factor	Minimum pension factor
50	6.80	2.60	2.62	9.55	4.75	4.06
51	6.90	2.90	2.67	9.65	5.15	4.15
52	7.10	3.20	2.72	9.80	5.60	4.24
53	7.30	3.50	2.78	9.95	6.10	4.33
54	7.50	3.80	2.84	10.10	6.65	4.43
55	7.70	4.20	2.90	10.30	7.25	4.53
56	8.00	4.60	2.97	10.50	7.95	4.63
57	8.30	5.00	3.04	10.75	8.75	4.74
58	8.60	5.40	3.12	11.05	9.65	4.85
59	9.00	5.80	3.20	11.40	10.65	4.97
60	9.50	6.30	3.28	11.75	11.75	
61	9.50	6.80	3.36	11.75	11.75	
62	9.50	7.40	3.44	11.75	11.75	
63	9.50	8.10	3.53	11.75	11.75	
64	9.50	9.00	3.64	11.75	11.75	
65	9.50	9.50		11.75	11.75	

(2) In the case of a pension debit member, the sum payable is reduced in accordance with such guidance as is provided for that purpose by the Government Actuary.

7. If payment is not made within 6 months after the person retired from the first brigade, the sum calculated in accordance with paragraphs 1 to 6 is increased by adding to it interest at 9 per cent per annum, compounded with 3-monthly rests, for the period of 3 months beginning on the date of the retirement and for each subsequent complete period of 3 months before the date of payment.

8. In making any calculation for the purpose of this part any reduction of pensionable pay during —

- (a) sick leave;
- (b) stoppage by way of punishment;
- (c) paid maternity, adoption and paternity leave;
- (d) unpaid ordinary maternity or ordinary adoption leave;
- (e) unpaid ordinary maternity leave, additional maternity leave or additional adoption leave where contributions have been paid under article 67

shall be disregarded.

Articles 60(6) and 64(11)

PART IV

AMOUNT OF TRANSFER VALUE

1. A transfer value is calculated on the cash equivalent basis if it is calculated in the manner prescribed under section 93(1) of the Pension Schemes (Northern Ireland) Act 1993 for the calculation of cash equivalents.

2. Where—

- (a) a transfer value is payable to the scheme managers of a club scheme or a personal pension scheme; or
- (b) a transfer value is payable to the scheme managers of an approved scheme which is not a club scheme and none of the service to which it relates is service before 1st October 1990,

and no right to a cash equivalent was acquired, the transfer value is to be calculated on the cash equivalent basis.

3. Where—

- (a) a transfer value is payable to the scheme managers of an approved scheme which is not a club scheme; and
- (b) the service to which it relates includes service before 1st October 1990; and
- (c) no right to a cash equivalent was acquired,

the amount of the transfer value is the total of

A and the greater of B and C

, where—

A is a notional transfer value, calculated on the cash equivalent basis, in respect of the person's service after 30th September 1990,

B is a notional transfer value, calculated on the cash equivalent basis, in respect of his service before 1st October 1990, and

C is a notional transfer payment, calculated in accordance with Part III, in respect of his service before 1st October 1990.

4. Where—

- (a) a transfer value is payable to the scheme managers of an approved scheme which is not a club scheme; and
- (b) the service to which it relates includes service before 1st October 1990, and
- (c) a right to a cash equivalent was acquired,

the amount of the transfer value is

D - E

, where—

D is the transfer value that would have been payable if paragraph 3 had applied, and

E is the amount of the cash equivalent.

5.—(1) Where—

- (a) a transfer value is payable to the scheme managers of a personal pension scheme; and
- (b) a right to a part cash equivalent was acquired,

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the transfer value is to be calculated on the cash equivalent basis as if the person's service as a regular fireman had ended with 5th April 1988.

(2) In the case of a pension debit member, the sum payable is reduced in accordance with such guidance as is provided for that purpose by the Government Actuary.

6. In the case of a pension debit member, the sum payable is reduced by such amount as is calculated in accordance with such guidance as is provided for the purpose by the Government Actuary.

SCHEDULE 7

Article 59

WAR SERVICE

PART I

WAR SERVICE ELECTIONS

1. A war service election is an election that additional pensionable service is to become, or to be treated as having become, reckonable by virtue of a period of war service.

2.—(1) A war service election is to be made by giving written notice to the Authority.

(2) The notice must specify whether the additional pensionable service is to be reckonable—

- (a) for all purposes except those of calculating a surviving spouse's pension or child's allowance; or
- (b) for all purposes.

PART II

WAR SERVICE FOLLOWED BY FIRE SERVICE

1.—(1) For the purposes of this Part a person's war service is, subject to sub-paragraph (2), the period of his whole-time service after 2nd September 1939 but before 1st July 1950, while 18 years old or older, in the armed forces of the Crown, in the merchant navy or the mercantile marine, or in any of the women's services that were specified in Schedule 1 to the Superannuation Act 1946(64).

(2) A person's war service does not include any period—

- (a) in respect of which any non-effective pay or excess remuneration has been received by him and not repaid; or
- (b) by virtue of which any armed forces pension or retired pay is payable to him in pursuance of any Royal Warrant or other instrument otherwise than in respect of disablement; or
- (c) by virtue of which he is entitled to reckon any period as pensionable service otherwise than under this Part; or

(64) 1946 c. 60, Schedule 1 was repealed by the Superannuation Act 1965 (c. 74), section 104 and Schedule 11.

(d) which he has reckoned or had the opportunity to reckon for the purposes of a public service pension scheme within the meaning of section 1 of the Pension Schemes (Northern Ireland) Act 1993.

(3) For the purposes of sub-paragraph (2)(a)—

(a) “non-effective pay” includes naval, military and air force pensions, retired pay, and gratuities (other than war gratuities to which section 23 of the Finance (No. 2) Act 1945(65) applied); and

(b) “excess remuneration” means, in relation to a retired officer of the armed forces of the Crown who is re-employed in those forces, any service pension drawn in respect of such period of re-employment or any addition to the normal pay attaching to the post in which the officer is re-employed which is granted by reason of the officer’s former employment in those forces,

and the Authority shall be entitled to rely on a certificate, signed by a duly authorised officer of the Ministry of Defence, that non-effective pay or excess remuneration was, or was not, paid in respect of any period and as to the sufficiency of any repayment.

2. This Part applies in the case of a person with war service who—

(a) after the end of his war service and before 1st July 1950 served as a member of the brigade; and

(b) is, or was immediately before his death, entitled to reckon pensionable service by virtue of his service before that date,

and in this Schedule “qualified fireman” means a person in whose case this Part applies.

3.—(1) Where this Part applies a war service election may be made by the qualified fireman.

(2) The notice of election must specify the period of war service by virtue of which the additional pensionable service is to be reckonable (“the specified period”).

(3) The notice must be given not earlier than 3 months before his intended retirement nor later than 3 months (or such longer period as the Authority may allow) after his retirement, and if—

(a) he dies while serving as a regular fireman; or

(b) he retires more than 3 months after the notice was given,

the election does not take effect.

(4) Subject to sub-paragraph (5) and to Part V, where—

(a) an election has taken effect; and

(b) the payment conditions in paragraph 4 are satisfied,

the qualified fireman shall be treated as having been entitled, immediately before his retirement to reckon as pensionable service for the purposes specified in the notice (“the specified purposes”) a period equal to half the specified period.

(5) Where—

(a) the period specified in the notice is the whole of his war service; and

(b) a shorter period would produce the benefits sought,

the shorter period shall be substituted as the specified period.

4.—(1) Subject to sub-paragraphs (8) and (9), the payment conditions are satisfied if the required amount is paid to the Authority within the appropriate period, or such longer period as the Authority may allow.

(65) 1945 c. 13; section 23 was replaced by the Income Tax Act 1952 (c. 10)

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- (2) Where the qualified fireman—
- (a) has commuted a portion of his pension for a lump sum equal to or greater than the required amount; and
 - (b) has not been paid the lump sum; and
 - (c) instructs the Authority in writing to deduct the required amount from the lump sum,
- the required amount is to be treated as having been paid when the instruction was given.
- (3) The required amount is—
- (a) where the specified purposes are those mentioned in paragraph 2(3)(a) of Part I, the basic amount calculated in accordance with sub-paragraph (4); and
 - (b) where the specified purposes are those mentioned in paragraph 2(3)(b) of Part I, the total of the basic amount and the additional amount calculated in accordance with sub-paragraph (5) or, as the case may be, sub-paragraphs (5) and (6).
- (4) The basic amount is
 $£A + B$
- , where—
- A is one seventh of 0.225 times the number of days of additional pensionable service, and
B is interest on A at three and a half per cent per annum, compounded with yearly rests, from 1st July 1950 to the date of payment, or if earlier, the date of the qualified fireman's death.
- (5) Subject to sub-paragraph (6), the additional amount is half the amount by which the actuarial value of the hypothetical pension, calculated in accordance with tables prepared by the Government Actuary, is increased by virtue of the additional pensionable service; the hypothetical pension is the pension that would have been payable to a surviving spouse entitled to such a pension if—
- (a) the qualified fireman had died on the date of his retirement; and
 - (b) article 51 (increase during first 13 weeks) had not applied.
- (6) Where the qualified fireman is, or on retirement will be, entitled to a deferred pension, the additional amount calculated in accordance with sub-paragraph (5) is increased by adding to it interest at three and a half per cent per annum, compounded with yearly rests, from 1st July 1950 to the date of payment or, if earlier, the date of his death.
- (7) The appropriate period for payment of the required amount is one of 3 months beginning on the date on which notice of the election was given.
- (8) Where the qualified fireman is entitled to a deferred pension which has not come into payment within the appropriate period, the payment conditions are satisfied if the required amount is paid to the Authority within 3 months after the date on which the pension comes into payment.

PART III

TRANSFeree'S WAR SERVICE RECKONABLE WITHOUT RECEIPT OF TRANSFER VALUE

- 1.—(1) This Part applies in the case of a person who at the material time—
- (a) either was serving as a regular fireman or had retired with an entitlement to a pension; and
 - (b) was entitled to reckon pensionable service for the purposes of the Firemen's Pension Scheme in operation at that time by virtue of a period of qualifying service; and

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- (c) was not entitled under the war service provisions of the scheme applicable to his qualifying service (the “qualifying scheme”) to reckon service for pension purposes by virtue of his qualifying service, but would have been so entitled if he had remained in that scheme until the material time.
- (2) The material time—
 - (a) where the person died or retired before 1st April 1978, is immediately before his death or retirement, whichever is the earlier; and
 - (b) in any other case, is 1st April 1978.
- (3) For the purposes of this Part—
 - (a) qualifying service is service or employment described in sub-paragraph (6);
 - (b) the war service provisions of a qualifying scheme are provisions analogous to those of Part II, and those of Part V as they apply to a qualified fireman; and
 - (c) “war service” has the same meaning as in the war service provisions of the qualifying scheme.
- (4) The Authority—
 - (a) may require that any claim that paragraph 1(1)(c) is satisfied, and as to the duration of the person’s war service, be supported by a certificate given by or on behalf of the scheme managers of the qualifying scheme; and
 - (b) are entitled to rely on such a certificate.
- (5) Where this Part would be capable of applying by virtue of more than one period of qualifying service it applies by virtue only of the first such period, and the others are to be disregarded.
- (6) Qualifying service comprises—
 - (a) Northern Ireland fire service, that is to say, service pensionable in pursuance of the Firemen’s Pension Scheme from time to time in force under section 10 of the Fire Services (Amendment) Act (Northern Ireland) 1950⁽⁶⁶⁾ or section 17 of the Fire Services Act (Northern Ireland) 1969⁽⁶⁷⁾ or, as respects the Belfast Fire Brigade, the Scheme so in force under section 13 of the said Act of 1950 or section 26 of the said Act of 1969;
 - (b) police service, that is to say, service pensionable in pursuance of an order or regulations from time to time in force under the Constabulary Acts (Northern Ireland) 1922 to 1949⁽⁶⁸⁾ or section 25 of the Police Act (Northern Ireland) 1970⁽⁶⁹⁾;
 - (c) service in health and personal social services in Northern Ireland, that is to say, service pensionable in pursuance of regulations from time to time in force under section 61 of the Health Services Act (Northern Ireland) 1948⁽⁷⁰⁾, section 67 of the Health Services Act (Northern Ireland) 1971⁽⁷¹⁾ and Schedule 8 thereto, or Article 12 of the Superannuation (Northern Ireland) Order 1972⁽⁷²⁾;
 - (d) Northern Ireland teaching service, that is to say, service pensionable in pursuance of a scheme comprised in, or in regulations or rules from time to time in force under Article 11 of the Superannuation (Northern Ireland) Order 1972 or the Teachers’

⁽⁶⁶⁾ 1950 c. 4 (N.I.)

⁽⁶⁷⁾ 1969 c. 13 (N.I.)

⁽⁶⁸⁾ 1922 c. 8 (N.I.); 1924 c. 17 (N.I.); 1928 c. 4 (N.I.); 1930 c. 18 (N.I.); 1933 c. 27 (N.I.); 1934 c. 10 (N.I.); 1949 c. 9 (N.I.)

⁽⁶⁹⁾ 1970 c. 9(N.I.)

⁽⁷⁰⁾ 1948 c. 3(N.I.)

⁽⁷¹⁾ 1971 c. 1 (N.I.)

⁽⁷²⁾ S.I. 1972/1073 (N.I. 10)

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Superannuation Acts (Northern Ireland) 1950 to 1967(73) or a 1923 Act Scheme (within the meaning assigned to that expression by section 1 of the Teachers' Superannuation Act (Northern Ireland) 1950;

- (e) Northern Ireland local government service, that is to say, service pensionable in pursuance of regulations from time to time in force under section 2 of the Local Government (Superannuation) Act (Northern Ireland) 1950(74) or Article 9 of the Superannuation (Northern Ireland) Order 1972;
- (f) police service in Great Britain, that is to say, service pensionable in pursuance of the Police Pensions Regulations from time to time in force under sections 1, 3 and 4 of the Police Pensions Act 1976(75);
- (g) teaching service in Great Britain, that is to say service pensionable in pursuance of regulations from time to time in force under section 9 of the Superannuation Act 1972(76), the Teachers' Superannuation (Scotland) Act 1968(77), the Teachers' Superannuation Act 1967(78), the Teachers' Superannuation Act 1965(79), section 102 of the Education (Scotland) Act 1962(80) or under the Teacher's (Superannuation) Act 1925(81), or under a scheme comprised in a Teachers' Superannuation Scheme (within the meaning assigned to that expression by section 145(47) of the said Act of 1962) from time to time in force;
- (h) National Health Service in Great Britain, that is to say, service pensionable in pursuance of regulations from time to time in force under section 10 of the Superannuation Act 1972, section 67 of the National Health Service Act 1946(82) or section 66 of the National Health Service (Scotland) Act 1947(83);
- (i) Local Government service in Great Britain, that is to say, service pensionable—
 - (i) under the Local Government Superannuation Act 1937(84) (“the 1937 Act”) or the Local Government Superannuation (Scotland) Act 1937(85) or in pursuance of regulations from time to time in force under the Local Government Superannuation Act 1953(86) or section 7 of the Superannuation Act 1972(87) (“the 1972 Act”); or
 - (ii) under a local Act scheme within the meaning of the 1937 Act or the 1972 Act.

2. A person in whose case this Part applies may, if the Authority consents, make a war service election.

3.—(1) Subject to Part V, where an election is made under paragraph 2 to the person making it shall be treated as having been entitled, immediately before his retirement or, as the case may be, his death while serving, to reckon for the purposes of the Firemen's Pension Scheme in operation

(73) 1950 c. 33 (N.I.); 1951 c. 28 (N.I.) (in part); 1956 c. 22 (N.I.); 1963 c. 7 (N.I.); 1967 c. 3 (N.I.) partially repealed with savings by Art. 23 of the Superannuation (Northern Ireland) Order 1972 1950 c. 10 (N.I.). section 2 was repealed with savings by S.I. 1972/1073 (N.I. 10), Article 23 Schedule 7, 8

(74) 1950 c. 10 (N.I.). section 2 was repealed with savings by S.I. 1972/1073 (N.I. 10), Article 23 Schedule 7, 8

(75) 1976 c. 35

(76) 1972 c. 11

(77) 1968 c. 12

(78) 1967 c. 12

(79) 1965 c. 83

(80) 1962 c. 47

(81) 1925 c. 59

(82) 1946 c. 81

(83) 1947 c. 27

(84) 1937 c. 68

(85) 1937 c. 69

(86) 1953 c. 25

(87) 1972 c. 11

at that time an additional period of pensionable service equal to the appropriate percentage of his war service.

- (2) The appropriate percentage where the qualifying service is—
- (a) police service or Great Britain police or fire service, is 47.75;
 - (b) service in health and personal social services or National Health service in Great Britain or local government service or Great Britain local government service, is 35.25; and
 - (c) teaching service or Great Britain teaching service, is 34.875.

PART IV

TRANSFEREE'S WAR SERVICE RECKONABLE ON RECEIPT OF ADDITIONAL TRANSFER VALUE

- 1.—(1) This Part applies in the case of a person—
- (a) who at the material time either was serving as a regular fireman or had retired with an entitlement to a pension; and
 - (b) who had war service within the meaning of a public service pension scheme; and
 - (c) in respect of whom there has been paid to the appropriate fire authority a transfer value which took account of service or employment in which he was subject to that scheme; and
 - (d) who by virtue of that transfer value was at the material time entitled to reckon pensionable service for the purposes of the Firemen's Pension Scheme in operation at that time; and
 - (e) in respect of whom there has been paid to the appropriate fire authority an additional transfer value calculated by reference to his war service.
- (2) Where a transfer value paid was calculated partly by reference to war service and partly by reference to other service, so much of it as is referable to war service shall for the purposes of sub-paragraph (1)(e) be treated as an additional transfer value.
- (3) The material time—
- (a) where the person died or retired before 1st April 1978, is immediately before his death or retirement, whichever is the earlier; and
 - (b) in any other case; is 1st April 1978.
- (4) The public service pension schemes are the Universities Superannuation Scheme and any occupational pension scheme which—
- (a) cannot come into force, or be amended, without the scheme or amendment being approved by a Minister of the Crown or government department; and
 - (b) does not relate to service falling within paragraph 1(6) of Part III.
2. A person in whose case this Part applies may, if the appropriate fire authority consent, make a war service election.
- 3.—(1) Subject to Part V, where an election is made under paragraph 2 the person making it shall be treated as having been entitled immediately before his retirement, or as the case may be his death while serving, to reckon for the purposes of the Firemen's Pension Scheme in operation at that time an additional period of pensionable service calculated in accordance with sub-paragraphs (2) and (3).

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- (2) The period is—
(A / B) years

where—

A is the basic transfer value, and

B is his adjusted pensionable emoluments multiplied by one and 1/3rd.

- (3) The basic transfer value is the additional transfer value received less any amount representing compound interest, and the adjusted pensionable emoluments are the product of—

- (a) the annual value of the emoluments (including averaged emoluments and any element for pensions increase) in relation to which the additional transfer value was calculated; and
- (b) the age factor ascertained from the Table.

Table

<i>Age in completed years on 1st April 1978</i>	<i>Factor</i>
40	0.1009
41	0.1018
42	0.1024
43	0.1031
44	0.1038
45	0.1045
46	0.1058
47	0.1073
48	1.1085
49	0.1099
50	0.1111
51	0.1125
52	0.1150
53	0.1176
54	0.1203
55	0.1229
56	0.1267
57	0.1306
58	0.1345
59	0.1397
60	0.1463
61	0.1465
62	0.1469

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<i>Age in completed years on 1st April 1978</i>	<i>Factor</i>
63	0.1473
64	0.1478
65	0.1480
66	0.1436
67	0.1392
68	0.1355
69	0.1311
70	0.1267
71	0.1230
72	0.1190
73	0.1144
74	0.1106
75	0.1063
76	0.1019
77	0.0981
78	0.0938
79	0.0900
80	0.0854
81	0.0815
82	0.0775
83	0.0735
84	0.0698
85	0.0661
86	0.0623
87	0.0585
88	0.0554
89	0.0525
90	0.0496
91	0.0467
92	0.0440
93	0.0419
94	0.0398
95	0.0377
96	0.0356

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<i>Age in completed years on 1st April 1978</i>	<i>Factor</i>
97	0.0342
98	0.0321
99	0.0306

PART V

SUPPLEMENTARY PROVISIONS

- 1.—(1) This paragraph applies where—
- (a) under paragraph 3(3) of Part II the Authority allows notice of a war service election to be given more than 3 months after the qualified fireman’s retirement but are not satisfied that the delay was due to circumstances beyond his control; or
 - (b) under paragraph 2 of Part III or paragraph 2 of Part IV it consents to the making of a war service election but are not satisfied that the person’s failure to give notice under Article 8 of the Firemen’s Pension Scheme (War Service) Order (Northern Ireland) 1980⁽⁸⁸⁾ as modified by Article 9(1) of the Firemen’s Pension Scheme (War Service) (Transferees) Order (Northern Ireland) 1988⁽⁸⁹⁾ was due to such circumstances.
- (2) Where this paragraph applies—
- (a) the additional pensionable service becomes reckonable only from the date on which the notice was received; and
 - (b) in a case falling within sub-paragraph (1)(a), paragraphs 5 and 6 do not apply; and
 - (c) in a case of falling within sub-paragraph (1)(b), paragraph 5 does not apply.
- 2.—(1) This paragraph applies where a qualified fireman dies, leaving a surviving spouse—
- (a) while serving and before becoming entitled under paragraph 3 of Part II to make a war service election; or
 - (b) while so entitled but without having made an election; or
 - (c) having made an election specifying only the purposes mentioned in paragraph 2(2)(a) of Part I.
- (2) This paragraph also applies where a person in whose case Part III or IV applies dies, leaving a surviving spouse—
- (a) while serving and without having made an election under the Part in question or under the other provisions referred to in paragraph 1(1)(b); or
 - (b) having made an election specifying only the purposes mentioned in paragraph 2(2)(a) of Part I.
- (3) In a case falling within sub-paragraph (1)(a) or (b) the surviving spouse may elect that the deceased is to be taken to have made a war service election specifying—
- (a) the purposes mentioned in paragraph 2(2)(b) of Part I; and
 - (b) the period of war service specified in the spouse’s notice of election.
- (4) The surviving spouse—
- (a) in a case falling within sub-paragraph (1)(c) may; and

⁽⁸⁸⁾ S.R. 1980 No.91

⁽⁸⁹⁾ S.R. 1998 No.144

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- (b) in a case falling within sub-paragraph (2) may if the Authority consents, elect that the deceased is to be taken to have made a war service election specifying the purposes mentioned in paragraph 2(2)(b) of Part I.

(5) Notice of an election under this paragraph must be given within 3 months, or such longer period as the Authority may allow, after the death.

(6) In a case falling within sub-paragraph (1), in relation to an election under this paragraph, paragraph 3(4) of Part II has effect with the substitution for the reference to the qualified fireman's retirement of a reference to his death, and paragraph 4 of Part II has effect with the substitution—

- (a) for the hypothetical pension described in paragraph 4(5) of Part II, of the surviving spouse's pension; and
- (b) for the date mentioned in paragraph 4(7) of Part II, of the date on which notice of the election under this paragraph was given.

3. For the purposes of Part IX of Schedule 2 (reduction of pension related to up-rating of widow's pension) the additional pensionable service reckonable by virtue of a war service election or an election under paragraph 2 shall be disregarded.

4.—(1) This paragraph applies where a qualified fireman or a person in whose case Part III or Part IV applies has died and—

- (a) a surviving spouse is entitled under article 31 to an accrued pension; or
- (b) a child is entitled under article 41 to an accrued allowance,

in the calculation of which there is to be taken into account additional pensionable service reckonable by virtue of a war service election or an election under paragraph 2.

(2) Where this paragraph applies Part III of Schedule 3 and Part III of Schedule 4 have effect—

- (a) where the deceased had half-rate service not falling within paragraph 1(1)(a) or (c) of Part III of Schedule 3, as if both his half-rate and his mixed-rate service included any additional pensionable service reckonable by virtue of a war service election or an election under paragraph 2; and
- (b) where that is not the case but he has mixed-rate service, as if his mixed-rate service included any such additional pensionable service.

5.—(1) Where a qualified fireman or a person in whose case Part III or IV applies—

- (a) has allocated a portion of his pension under article 23; and
- (b) subsequently received an increased pension on account of additional pensionable service reckonable by virtue of a war service election,

neither the amount allocated nor any right to allocate a further portion is affected.

(2) Where a qualified fireman or a person in whose case Part III or IV applies—

- (a) has allocated under article 23 a portion of a short service or deferred pension; and
- (b) by virtue of a war service election becomes entitled to reckon a total of at least 25 years' pensionable service, and consequently becomes entitled to an ordinary pension,

the notice of allocation shall be treated as having related to the ordinary pension.

6. Where a qualified fireman or a person in whose case Part III or IV applies—

- (a) became entitled to an ordinary pension on retiring when entitled to reckon less than 30 years' pensionable service and before attaining the age of 55; and
- (b) by virtue of a war service election becomes entitled to reckon a total of at least 30 years' pensionable service,

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he may give notice of commutation under article 21 within 3 months after the additional pensionable service became reckonable.

7.—(1) This paragraph applies where a qualified fireman or a person in whose case Part III or IV applies—

- (a) retired with a deferred pension; and
- (b) by virtue of a war service election becomes entitled to reckon a total of at least 25 years' pensionable service, and consequently becomes entitled to an ordinary pension.

(2) If—

- (a) the deferred pension had come into payment; and
- (b) he had commuted a portion of it under article 21.

the notice of commutation shall be treated as having related to the ordinary pension.

(3) If—

- (a) the deferred pension had not come into payment; but
- (b) he had given notice of commutation under article 21,

the notice does not take effect, but he may give a fresh notice of commutation within 3 months after the date on which the additional pensionable service became reckonable.

8.—(1) This paragraph applies where—

- (a) a person makes a war service election under Part III or IV; and
- (b) the notice of election specifies only the purposes mentioned in paragraph 2(3)(a) of Part I.

(2) Where this paragraph applies—

- (a) for the purposes of calculating a surviving spouse's pension or a child's allowance his pension shall be taken to be what it would have been if the additional pensionable service had not been reckonable; but
- (b) if any of the provisions that were listed in Part III of Schedule 1 to the Firemen's Pension Scheme (War Service) Order (Northern Ireland) 1980 (provisions, previously revoked subject to savings, for the calculation of the rate of widow's ordinary pension by reference to husband's pensionable service) apply in his case, the additional pensionable service counts for the purposes of those provisions.

9.—(1) This paragraph applies where—

- (a) a person makes a war service election under Part III or IV; and
- (b) the notice of election specifies the purposes mentioned in paragraph 2(2)(b) of Part I.

(2) Where this paragraph applies the additional pensionable service calculated in accordance with, as the case may be, paragraph 3 of Part III or paragraph 3 of Part IV is reduced by the applicable percentage.

(3) The applicable percentage—

- (a) in the case of a person without any pensionable service reckonable by virtue of service as a member of the brigade before 1st April 1972 ("pre-1972 pensionable service"), or a person with half-rate service, is 10; and
- (b) in any other case; is 7.5.

(4) In the case of a person without any pre-1972 pensionable service—

- (a) Parts I and II of Schedule 11 do not apply; and

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- (b) for the purposes of Part III of Schedule 3 and paragraph 4, the additional pensionable service shall be treated as being half-rate and mixed-rate service.

10.—(1) Nothing in this Schedule affects the calculation of a pension payable—

- (a) where Part II applies, in respect of a period ending before 1st April 1975; or
- (b) where Part III or IV applies, in respect of a period ending before 1st April 1978,

and no payment shall be made in respect of such a period in the case of a pension that would not have been payable but for this Schedule.

(2) Nothing in this Schedule affects the calculation of a transfer value other than one payable in the case of a person who ceased to serve as a member of the brigade after 31st March 1975.

PART VI

PAYMENT OF ADDITIONAL TRANSFER VALUES

1.—(1) Subject to sub-paragraph (3), this Part applies in the case of a person—

- (a) who at the material time was a serving member of, or had retired with an entitlement to a pension from, a public service pension scheme within the meaning of paragraph 1(4) of Part IV (“the 1978 scheme”);
- (b) who had ceased to be a member of the brigade before 1st April 1975 but would otherwise have been a qualified fireman within the meaning of Article 6 of the Firemen’s Pension Scheme (War Service) Order (Northern Ireland) 1980; and
- (c) in respect of whom there became payable by the Authority to the scheme managers of the 1978 scheme (“the 1978 pension authority”) a transfer value by virtue of which he was at the material time entitled to reckon service for the purposes of that scheme.

(2) The material time—

- (a) where the person died or retired from the 1978 scheme before 1st April 1978, is immediately before his death or the retirement, whichever is the earlier; and
- (b) in any other case, is 1st April 1978.

(3) In the case of a person who had a period of service—

- (a) in which he was a member of a public service pension scheme within the meaning of section 1 of the Pension Schemes (Northern Ireland) Act 1993(a); and
- (b) which was completed before he became a member of the brigade; and
- (c) which reckoned as service for the purposes of the 1978 scheme,

this Part does not apply unless it appears to the Authority that he has not had, and will not have, any opportunity to reckon war service for the purposes of the earlier scheme.

2.—(1) Subject to sub-paragraphs (2) to (5), in respect of a person in whose case this Part applies, the Authority shall pay the 1978 pension authority an additional transfer value calculated in accordance with paragraph 3.

(2) The 1978 pension authority must have applied to the Authority for the additional transfer value to be paid, and have certified to it—

- (a) that the person was alive on 1st April 1975;
- (b) that on payment of the additional transfer value he will be entitled to reckon service for the purposes of the 1978 scheme by virtue of his war service; and

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(c) the amount of the relevant pensionable emoluments.

(3) Where the person was on 1st April 1978 a serving member of the 1978 scheme, the relevant pensionable emoluments are those by reference to which a transfer value in respect of him falling to be paid on that date would have been calculated under that scheme.

(4) In any other case, the relevant pensionable emoluments are the total of the pensionable emoluments by reference to which the pension under the 1978 scheme—

(a) was calculated; or

(b) if not in payment, would have been calculated if it had been put into payment on 1st April 1978,

and the pensions increase factor.

(5) The pensions increase factor is the annual amount (if any) by which, by 1st April 1978, the pension—

(a) if in payment, had been increased; or

(b) if not in payment, would have been increased if it had been in payment and had qualified for increases,

under the Pensions (Increase) Act (Northern Ireland) 1971(90).

$$(((47.75x(AxB)xC)/100)x4/3)$$

and the appropriate interest on that sum.

(2) In sub-paragraph (1)—

A is the amount of the emoluments certified under paragraph 2(2),

B is the period of the person's war service expressed in years and a fraction of a year, and

C is the age factor ascertained from the Table in paragraph 3(3) of Part IV.

(3) The appropriate interest is interest at 9% per annum, compounded with 3-monthly rests, for each complete period of 3 months after 31st March 1978 and before the date of payment.

SCHEDULE 8

Article 71(1) and 72(3)

PURCHASE OF INCREASED BENEFITS

PART I

PAYMENTS

1.—(1) In the case of a man, the lump sum mentioned in article 71(1)(a) is

$$A \times B$$

, where—

A is the specified number of sixtieths of his average pensionable pay, and

B is the percentage of his total pensionable pay during the year ending with the date of the election (“the relevant period”) ascertained from the Table in paragraph 5 by reference to his age on his next birthday after that date and on his retirement date.

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

(90) 1971 c. 35(N.I.)

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- (a) any reduction of pensionable pay during —
 - (i) sick leave;
 - (ii) stoppage by way of punishment;
 - (iii) paid maternity, adoption or paternity leave;
 - (iv) unpaid ordinary maternity or ordinary adoption leave;
 - (v) unpaid ordinary maternity leave, additional maternity leave or additional adoption leave where contributions have been paid under article 67 shall be disregarded; and
 - (b) if he was in receipt of pensionable pay for part only of the relevant period, his total pensionable pay during the relevant period is his total pensionable pay for that part multiplied by the reciprocal of the fraction of the period which that part represents.
2. In the case of a woman, the lump sum mentioned in article 71(1)(a) is the amount determined by the Government Actuary to be appropriate to the additional benefits secured by the election.
- 3.—(1) In the case of a man, the amount for any period of the contributions mentioned in article 71(1)(b) is
- $$A \times C$$
- , where—
- A is the specified number of sixtieths of his average pensionable pay, and
 - C is the percentage of his pensionable pay for the period ascertained from the Table in paragraph 5 by reference to his age on his next birthday after the date of the election and on his retirement date.
- (2) For the purposes of sub-paragraph (1)—
- (a) any reduction of pay during:-
 - (i) sick leave;
 - (ii) stoppage by way of punishment;
 - (iii) paid adoption or paternity leave;
 - (iv) ordinary adoption leave
 - (v) additional adoption leave where contributions have been made up under article 67 shall be disregarded; and
 - (b) for any period for which he is for any reason disentitled to pensionable pay, his pensionable pay shall be taken to be what it would have been but for the disentanglement.
4. In the case of a woman, the rate of the contributions mentioned in article 71(1)(b) is the rate determined by the Government Actuary to be appropriate to the additional benefits secured by the election.
5. The following Table is that referred to in paragraphs 1 and 3.

Table

<i>Age next birthday</i>	<i>Age on retirement date</i>	<i>Under 60</i>	
<i>Percentage Lump sum</i>	<i>Contributions</i>	<i>Percentage Lump sum</i>	<i>Contributions</i>
26		33.90	1.24

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<i>Age next birthday</i>	<i>Age on retirement date 60 or over</i>		<i>Under 60</i>	
<i>Percentage Lump sum</i>	<i>Contributions</i>	<i>Percentage Lump sum</i>	<i>Contributions</i>	
27			33.90	1.29
28			33.80	1.35
29			33.80	1.41
30			33.70	1.48
31	27.30	0.96	33.70	1.56
32	26.70	1.00	33.60	1.64
33	26.30	1.04	33.60	1.73
34	26.10	1.08	33.50	1.82
35	26.00	1.12	33.40	1.92
36	26.00	1.16	33.20	2.03
37	26.00	1.21	32.90	2.15
38	25.90	1.27	32.50	2.28
39	25.90	1.33	32.10	2.42
40	25.90	1.40	31.60	2.57
41	25.90	1.48	31.00	2.74
42	25.90	1.57	30.20	2.94
43	25.90	1.67	29.20	3.18
44	25.90	1.77	28.20	3.48
45	25.90	1.88	27.30	3.85
46	25.90	2.00	26.70	4.30
47	25.90	2.14	26.30	4.84
48	25.80	2.31	26.30	5.49
49	25.80	2.52	26.60	6.28
50	25.80	2.78	27.00	7.34
51	25.80	3.10	27.50	8.91
52	25.80	3.50	28.10	11.45
53	25.80	4.02	28.70	16.44
54	25.70	4.70	29.20	
55	25.70	5.60	29.60	
56	25.70	6.86		
57	25.80	9.05		
58	25.80	13.43		

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<i>Age next birthday</i>	<i>Age on retirement date</i>	<i>Percentage Contributions Lump sum</i>	<i>Under 60 Percentage Contributions</i>
59	60 or over	25.90	
60		26.00	

Articles 73(3), (5) and (6)

PART II

CALCULATION OF APPROPRIATE AMOUNT

1. The amount mentioned in article 73(3) is—

$$(AxB) / C$$

where—

A is the number of sixtieths of average pensionable pay specified in the election,

B is the length of the period, or the total length of the periods, during which payment had been made, and

C is the length of the period during which payment would have been made if payment had been continuous to the date of death or the person's normal pension age.

2. The amount mentioned in article 73(5)(b) is—

$$(AxB) / D$$

where A and B are the same as in paragraph 1 and D is the length of the period during which payment would have been made if payment had been continuous to the person's retirement date.

3. The actuarial valuation mentioned in article 73(6) is the assessment by the Government Actuary of the extent to which the value of the benefits is increased on account of their being paid before the person's retirement date.

Article 73(1)

PART III

INCREASES BY REFERENCE TO APPROPRIATE AMOUNT

1. In this Part references to the appropriate amounts are to the amount which is the appropriate amount for the purposes of article 73(1)(a).

2.—(1) In the provisions mentioned in sub-paragraph (2) any reference to a pension of a kind provided for in Part B shall be treated as a reference to that pension increased by the appropriate amount.

- (2) The provisions are those of—

- (a) article 51 (increase of pensions and allowances during first 13 weeks);

- (b) Part I of Schedule 3 (spouse's or civil partner's ordinary pension);

- (c) Part IV of Schedule 3 (pension for widow of post-retirement marriage or civil partnership);

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- (d) Part I of Schedule 4 (child's ordinary allowance);
- (e) Part III of Schedule 4 (child's accrued allowance); and
- (f) Part III of Schedule 6 (transfer payments).

3.—(1) In the provisions mentioned in sub-paragraph (2) any reference to a pension or allowance of a kind provided for in Part C or D shall be treated as a reference to that pension or allowance as increased by virtue of this Part of this Schedule.

(2) The provisions are those of —

- (a) article 48 (gratuity in lieu of surviving spouse's or civil partner's pension);
- (b) article 49 (gratuity in lieu of child's allowance);
- (c) article 51;
- (d) paragraph 2 of Part I of Schedule 4;
- (e) paragraph 5 of Part III of Schedule 4 (child's accrued allowance); and
- (f) Part III of Schedule 6.

4. A spouse's or civil partner's pension calculated under paragraphs 1 and 2 of Part III of Schedule 3 or under Part I of Schedule 11 shall be increased by half the appropriate amount.

5.—(1) In calculating a child's ordinary allowance under Part II of Schedule 11 the amounts A and B in paragraph 3 of that Part shall each be increased by the amount obtained by multiplying it by—

$$N / 60$$

(2) In calculating a child's accrued allowance under Part III of Schedule 4 the lengths of the half-rate service and total pensionable service mentioned in paragraph 3(3) of that Part shall each be increased by the period obtained by multiplying it by—

$$N / 60$$

(3) In sub-paragraphs (1) and (2) N is the number of sixtieths taken into account in ascertaining the appropriate amount.

SCHEDULE 9

Article 76(2) and (5)

APPEAL TO INDEPENDENT MEDICAL REFEREE

1.—(1) Subject to sub-paragraph (2), written notice of appeal against an opinion of the kind mentioned in article 76(2) stating—

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

must be given to the Authority within 14 days beginning with the date on which he is supplied by it with a copy of the opinion.

(2) Where—

- (a) notice of appeal is not given within the period specified in sub-paragraph (1); but
- (b) the Authority is of the opinion that the person's failure to give it within that period was not due to his own default,

it may extend the period for giving notice to such length, not exceeding 6 months from the date mentioned in sub-paragraph (1), as it thinks fit.

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

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

3. The independent medical referee shall secure that the appellant and the Authority (“the parties”) have been informed—

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

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

- (a) shall interview and medically examine the appellant at least once; and
- (b) may interview or medically examine him or cause him to be interviewed or medically examined on such further occasions as the independent medical referee thinks necessary for the purpose of deciding the appeal.

(2) The independent medical referee shall—

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

the time and place for every interview and medical examination; if the independent medical referee is satisfied that the appellant is unable to travel, the place shall be the appellant’s place of residence.

(3) The appellant shall attend at the time and place appointed for any interview or medical examination by the independent medical referee.

(4) If—

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

the independent medical referee may dispense with the interview or medical examination required by sub-paragraph (1)(a) or, as the case may be, with any further interview or medical examination required by sub-paragraph (1)(b), and may decide the appeal on such information as is then available.

(5) Any interview under this paragraph may be attended by persons appointed for the purpose by the Authority or by the appellant or by each of them.

5.—(1) Where either party to the appeal intends to submit written evidence or a written statement at an interview held under paragraph 4, the party shall, subject to sub-paragraph (2), submit it to the independent medical referee and to the other party not less than 7 days before the date appointed for the interview.

(2) Where any written evidence or statement has been submitted under sub-paragraph (1) less than 7 days before the date appointed for the interview, any written evidence or statement in response may be submitted by the other party to the independent medical referee and the party submitting the first-mentioned evidence or statement at any time up to, and including, that date.

(3) Where any written evidence or statement is submitted in contravention of sub-paragraph (1), the independent medical referee may postpone the date appointed for the interview

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and require the party who submitted the evidence or statement to pay such reasonable costs of the independent medical referee and of the other party as arise from the postponement.

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

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

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

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

- (a) be paid by the Authority; and
- (b) be treated for the purposes of paragraph 8 as part of the Authority's expenses.

8.—(1) Subject to paragraph 5(3) and sub-paragraphs (2) to (6), the expenses of each party to the appeal shall be borne by that party.

(2) Where the independent medical referee—

- (a) decides in favour of the Authority; and
 - (b) reports that in his opinion the appeal was frivolous, vexatious or manifestly ill-founded,
- the Authority may require the appellant to pay it such sum, not exceeding the amount of the fees and allowances payable to the independent medical referee under paragraph 7(1), as it thinks fit.

(3) Where the appellant gives notice to the independent medical referee of withdrawing the appeal within 10 working days of the date appointed for an interview by the independent medical referee under paragraph 4(2), the Authority may require the appellant to pay it such sum, not exceeding the total amount of fees and allowances payable to the independent medical referee under paragraph 7(1) as it thinks fit.

(4) Where the independent medical referee—

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

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

(5) The amount is the total of—

- (a) any personal expenses actually and reasonably incurred by the appellant in respect of any interview under paragraph 4; and
- (b) if any such interview was attended by a qualified medical practitioner appointed by the appellant, any fees and expenses reasonably paid by the appellant in respect of such attendance.

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

9. Any notice, information or document which an appellant is entitled to receive for the purposes of this Part shall be deemed to have been received by him if it was duly posted in a letter addressed to him at his last known place of residence.

SCHEDULE 10

Articles 79(4) and 80(6)

SERVICEMEN – INCREASED AWARDS

1. The total of —

- (a) the amount of a pension as increased under article 79(3)(b); and
- (b) the amount of any service pension other than an allowance for constant attendance, wear and tear of clothing, or comforts,

must not exceed the amount of the injury pension to which the serviceman would have been entitled if article 18 had applied.

2. The total of —

- (a) the amount of a pension as increased under article 80(2)(b); and
- (b) the amount of any service pension payable to the spouse or civil partner in respect of the serviceman,

must not exceed the amount of the special pension to which the spouse or civil partner would have been entitled if article 29 had applied.

3. The total of —

- (a) the amount of a child's allowance as increased under article 80(2)(b); and
- (b) the amount of any service pension payable to or for the child in respect of the serviceman,

must not exceed the amount of the special allowance to which the child would have been entitled if article 39 had applied.

SCHEDULE 11

SPECIAL CASES

Article 28(2)

PART I

SPOUSE'S OR CIVIL PARTNER'S AWARDS

1.—(1) Paragraphs 2 to 6 have effect for the calculation of a surviving spouse's or civil partner's ordinary pension where—

- (a) on 1st July 1973 the deceased was serving as a regular fireman or was entitled to a pension other than a deferred pension; and
- (b) no election under paragraph 2 of Part I of Schedule 3 (flat-rate pension) has effect; and
- (c) no payments election was made.

(2) A payments election is an election under Article 52, 53 or 54 of the 1973 Scheme made—

- (a) where before 1st April 1972 he last paid pension contributions at a rate related to 5% of his pensionable pay, for the purpose of avoiding the application of paragraphs 2 and 3 of Part II of Schedule 2 to the 1973 scheme; and
- (b) in any other case, for the purpose of avoiding the application of paragraph 3 of that Part.

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2.—(1) Subject to sub-paragraph (2), where before 1st April 1972 the deceased last paid pension contributions at a rate related to 5% of his pensionable pay the amount of the spouse's or civil partner's ordinary pension is half the amount specified in paragraph 4(1).

(2) The amount payable in respect of any week shall not be less than it would have been if the weekly amount of the pension had been calculated as provided in Scheme II of Part II of Schedule 2 to the Firemen's Pension Scheme 1971(91).

3.—(1) Subject to sub-paragraph (2), where paragraph 2 does not apply, the amount of the spouse's or civil partner's ordinary pension is—

$$(A/3) + (B/6)$$

where—

A is the amount of the deceased's pension or notional pension, and

B is the amount specified in paragraph 4(1).

(2) Except where the deceased was in receipt of an ordinary or short service pension, the amount of the spouse's or civil partner's ordinary pension shall not be less than half the amount specified in paragraph 5(1).

4.—(1) The amount mentioned in paragraphs 2(1) and 3(1) is the difference between—

$$[(CxD)/60] + [(Cx E)/30]$$

where—

C is the deceased's average pensionable pay,

D is, subject to paragraph 6, his pensionable service up to 20 years, and

E is, subject to paragraph 6, any excess of his pensionable service over 20 years,

and an amount calculated in the same way but by reference only to pre-1972 pensionable service.

(2) In this paragraph and in paragraph 5 "pre-1972 pensionable service" means pensionable service reckonable otherwise than—

(a) by virtue of service as a regular fireman after 31st March 1972; or

(b) where the conditions in article 57(1) or 57(3) were satisfied after 30th September 1973 or those in article 57(7) and 57(8) were satisfied after 31st March 1974, by virtue of article 57 (unless, having given written notice of his intention to do so, he retired for the purpose of joining another brigade); or

(c) by virtue of article 62.

5.—(1) The amount mentioned in paragraph 3(2) is that of the deceased's ill-health or notional pension calculated in accordance with Part III of Schedule 2 but—

(a) by reference to his weighted relevant pensionable service where it does not exceed 20 years; or

(b) where his weighted relevant pensionable service exceeds 20 years, by reference, subject to paragraph 6, to the total of his relevant pensionable service and half his pre-1972 pensionable service,

instead of by reference to his pensionable service.

(2) For the purposes of this paragraph—

(91) Brought into operation by S.R. & O. (N.I.) 1971 No 33

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- (a) the deceased's relevant pensionable service is his pensionable service other than pre-1972 pensionable service; and
 - (b) his weighted relevant pensionable service is what his relevant pensionable service would be if so much of it as exceeds the relevant period were counted twice, the relevant period being the period, if any, by which his pre-1972 pensionable service falls short of 20 years.
6. Where the deceased's pensionable service exceeds 30 years, the excess is to be deducted—
- (a) for the purposes of paragraph 4, from his pensionable service and from his pre-1972 pensionable service; and
 - (b) for the purposes of paragraph 5, except that of determining his relevant pensionable service, from his pre-1972 pensionable service.
- Article 39(2)

PART II

CHILDREN'S AWARDS

1. This Part has effect for the calculation of a child's ordinary allowance where—
- (a) the deceased was the child's father;
 - (b) on 1st October 1973 he was serving as a regular fireman or was entitled to a pension other than a deferred pension; and
 - (c) no payments election (within the meaning of paragraph 1 of Part I) was made.
2. The amount of an ordinary allowance is the appropriate percentage (within the meaning of paragraph 1 of Part I of Schedule 4) of the amount described in paragraph 3.
3. The amount mentioned in paragraph 2 is the difference between (A + B) and C
- , where—
- A is 1/60th of the deceased's average pensionable pay multiplied by the period in years of his pensionable service up to 20 years,
 - B is 2/60ths of his average pensionable pay multiplied by the period in years by which his pensionable service exceeds 20 years, and
 - C is
(A + B)
- calculated by reference only to pre-1972 pensionable service (within the meaning of paragraph 4 of Part I),
- but where the deceased's pensionable service exceeds 30 years the excess is to be deducted—
- (a) from his pensionable service in calculating A and B; and
 - (b) from his pre-1972 pensionable service in calculating C.
- Article 5(3)

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PART III

CALCULATION OF PENSIONABLE SERVICE WHERE PERSON CEASED TO SERVE BEFORE 1ST MAY 1975

1. For the purposes of Part I of Schedule 2 the period in years by which a period exceeds 25 years shall be computed in completed half-years.

2.—(1) For the purposes—

- (a) of paragraphs 2 and 3 of Part IV of Schedule 2;
- (b) of Part V of Schedule 2;
- (c) of paragraph 1(2) of Part VIII of Schedule 2; and
- (d) of paragraph 6 of Part I,

a period shall be computed in completed years.

(2) For the purposes—

- (a) of Part II of Schedule 2;
- (b) of paragraph 4 of Part III of Schedule 2;
- (c) of Part VII of Schedule 2;
- (d) of paragraph 4(l) of Part I,

a period shall be computed in completed years, except that the period in years by which a period exceeds 20 years shall be computed in completed half-years.

(3) For the purposes of paragraph 5 of Part I a period shall be computed in completed years, except that—

- (a) half the deceased's pre-1972 pensionable service shall for the purposes of paragraph 5(1)(b) of that Part; and
- (b) the period in excess of the relevant period shall for the purposes of paragraph 5(2)(b) of that Part,

be computed in completed half-years.

(4) For the purposes—

- (a) of paragraph 2 of Part III of Schedule 3; and
- (b) of paragraph 3 of Part III of Schedule 4,

a period shall be computed in completed years, except that insofar as a period exceeds 20 years it shall be computed in completed half-years.

3. Where a period is to be computed in completed years a part of a year shall be ignored, and where a period is to be computed in completed half-years

- (a) a part of a year less than a half shall be ignored; and
- (b) a part of a year exceeding a half shall be treated as a half.

SCHEDULE 12

Article 105

TRANSITIONAL AND OTHER MATTERS

1.—(1) The revocation of the orders specified in Part I of Schedule 13 (“the Part I Orders”) and the re-enactment in this Scheme of provisions that were contained in or required to be construed

as one with the 1973 Scheme (“1973 provisions”), shall not, except in so far as 1973 provisions are re-enacted with modifications, be taken to affect the continuity of the law, and accordingly—

- (a) any reference in this Scheme to, or to things done or falling to be done under or for the purposes of, any provision of this Scheme is, if and so far as the nature of the reference permits, to be construed as including, in relation to circumstances or purposes in relation to which the corresponding 1973 provision had effect, a reference to, or as the case may be to things done or falling to be done under or for the purposes of, that corresponding provision; and
- (b) where a period of time specified in a 1973 provision is current at the commencement of this Scheme, this Scheme has effect as if the corresponding provision of this Scheme had been in operation when that period began to run.

(2) Sub-paragraph (1)—

- (a) has effect subject to any express provision to the contrary, and to paragraph 2 (protected benefits); and
- (b) does not mean that the provisions of this Scheme apply to cases to which the corresponding 1973 provisions did not apply by virtue of transitional provision made in connection with the commencement of any of the Part I Orders.

2.—(1) Where—

- (a) a provision of this Scheme (“the new provision”) re-enacts a 1973 provision with any modification; and
- (b) a person to whom a protected benefit was being paid or might become payable is placed in a worse position than he would have been in if the 1973 provision had continued to have effect,

he may, by giving written notice within 3 months after 1st April 2006 to the Authority elect that the new provision is to apply in relation to the benefit as if it had re-enacted the 1973 provision without modification.

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

3.—(1) The revocation of a transitional provision relating to the coming into force of a 1973 provision re-enacted in this Scheme does not affect the operation of that transitional provision, so far as it remains capable of having effect, in relation to the provision as re-enacted.

(2) The revocation of the Part I Orders and the orders specified in Part II of Schedule 13 (“the Part II Orders”) does not affect—

- (a) the previous operation; or
- (b) so far as they remain capable of having effect, the operation,

of the savings subject to which the Part II Orders were previously revoked or, in relation to provisions that were given continued effect by those savings, of the Part I Orders and the Part II Orders in so far as they varied those provisions.

4. Any document made, served or issued after 31st March 2006 which includes a reference to a 1973 provision is to be construed, except so far as a contrary intention appears, as referring or, as the context may require, including a reference to the corresponding provision of this Scheme.

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SCHEDULE 13

REVOCATIONS

PART I

ORDERS NOT PREVIOUSLY REVOKED

<i>Orders revoked</i>	<i>Reference</i>	<i>Extent of revocation</i>
Firemen's Pension Scheme Order (Northern Ireland) 1973	S.R. & O.1973 No. 393	The whole Order.
Firemen's Pension Schemes (Amendment) Order (Northern Ireland) 1975	S.R. 1975 No. 358	The whole Order.
Firemen's Pension Schemes (Amendment) Order (Northern Ireland) 1976	S.R. 1976 No. 216	The whole Order.
Firemen's Pension Schemes (Amendment) Order (Northern Ireland) 1978	S.R. 1978 No. 24	The whole Order.
Firemen's Pension Scheme (Amendment) (No. 2) Order (Northern Ireland) 1978	S.R. 1978 No. 100	The whole Order.
Firemen's Pension Scheme (Amendment) Order (Northern Ireland) 1979	S.R. 1979 No. 88	The whole Order.
The Firemen's Pension Schemes (Amendment) (No. 2) Order (Northern Ireland) 1979	S.R. 1979 No. 310	The whole Order.
Firemen's Pension Schemes (Amendment) (No. 3) Order (Northern Ireland) 1979	S.R. 1979 No. 87	The whole Order.
Firemen's Pension Schemes (Amendment) Order (Northern Ireland) 1980	S.R. 1980 No. 62	The whole Order.
Firemen's Pension Schemes (Amendment) Order (Northern Ireland) 1981	S.R. 1981 No. 143	The whole Order.
Firemen's Pension Scheme (Amendment) (No. 2) Order (Northern Ireland) 1981	S.R. 1981 No. 320	The whole Order.
Firemen's Pension Schemes (War Service) Order (Northern Ireland) 1980	S.R. 1980 No.208	The whole Order.

<i>Orders revoked</i>	<i>Reference</i>	<i>Extent of revocation</i>
Firemen's Pension Scheme (Amendment No. 2) Order (Northern Ireland) 1980	S.R. 1980 No. 91	The whole Order.
Firemen's Pension Scheme (Amendment) Order (Northern Ireland) 1982	S.R. 1982 No. 18	The whole Order.
The Firemen's Pension Scheme (Amendment) Order (Northern Ireland) 1983	S.R. 1983 No. 116	The whole Order.
The Firemen's Pension Scheme (Amendment) Order (Northern Ireland) 1984	S.R. 1984 No. 99	The whole Order.
Firemen's Pension Scheme (Amendment) Order (Northern Ireland) 1987	S.R. 1987 No. 424	The whole Order.
The Firemen's Pension Scheme (War Service) (Transferees) Order (Northern Ireland) 1988	S.R. 1988 No. 144	The whole Order.
The Firemen's Pension Scheme (Amendment) Order (Northern Ireland) 1988	S.R. 1988 No. 185	The whole Order.
The Firemen's Pension Scheme (Amendment) Order (Northern Ireland) 1989	S.R. 1989 No. 383	The whole Order.
Firemen's Pension Scheme (Amendment) Order (Northern Ireland) 1991	S.R. 1991 No. 312	The whole Order.
The Firemen's Pension Scheme (Amendment No. 2) Order (Northern Ireland) 1991	S.R. 1991 No. 447	The whole Order.

PART II

ORDERS PREVIOUSLY REVOKED SUBJECT TO SAVINGS

<i>Orders revoked</i>	<i>References</i>	<i>Extent of revocation</i>
Firemen's Pension Scheme Order (Northern Ireland) 1971	S.R. & O. (N.I.) 1971 No 33	The whole Order, so far as still having effect.
The Firemen's Pension Scheme (Amending) Order (Northern Ireland) 1972	S.R. & O. (N.I.) 1972 No 157	The whole Order, so far as still having effect.

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<i>Orders revoked</i>	<i>References</i>	<i>Extent of revocation</i>
The Firemen's Pension Scheme (Amending) (No. 2) Order (Northern Ireland) 1972	S.R. & O. (N.I.) 1972 No 379	The whole Order, so far as still having effect.
The Firemen's Pension Scheme (Amendment) Order (Northern Ireland) 1973	S.R. & O. (N.I.) 1973 No 1	The whole Order, so far as still having effect."

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into operation the Firemen's Pension Scheme (Northern Ireland) 2006 set out in the Annex to the Order ("the 2006 Scheme") and revokes the Orders specified in Schedule 13. It effects consolidation and also makes provision for the implementation of pension sharing on divorce and nullity in accordance with the Welfare and Pensions Reform Order (Northern Ireland) 1999 and subordinate legislation made under that Order. The principal changes, apart from those that consist in the omission of spent or obsolete provisions, are :

- to make provision for part-time regular firemen to be treated the same as whole-time regular firemen for the purposes of the Scheme (see articles 7, 13, 14, 27 and 91), except that awards for part-time members will be reduced using the formula in Part IV of Schedule 2 to take account of the fact that the member's pensionable service will relate to a period of part-time service;
- to make provision for the making of contributions and counting as pensionable service periods during when a member is on maternity, paternity or adoption leave (see articles 8, 14, 19, 53, 54, 55, 65, 67, Schedule 1 and Part VI of Schedule 2);
- to provide that when considering whether a disablement is permanent, the Authority will consider whether the disablement will continue until the age the person would have otherwise retired (see article 10);
- to replace the requirement for compulsory retirement at 55 for those of Station Officer or lower rank, and at 60 for those of Assistant Divisional Officer or higher rank, with a provision for a normal pension age of 55, whatever the individual's rank (article 11);
- the correction of an anomaly in the rules which allowed an individual who was found unfit for fire-fighting, but able to carry out other duties, to resign with a deferred pension prior to re-deployment, and immediately request early payment of that pension on the ground that he or she was permanently unfit for fire-fighting (see article 19(4)(b));
- to provide that a pension shall not be reduced by the allocated portion where the beneficiary has died (article 23);
- to reduce the period of pensionable service required to be entitled to a spouse's or civil partner's ordinary pension and surviving spouse's or civil partner's requisite benefit and temporary pension from 3 years to 2 years (articles 28 and 33);
- the amalgamation of formerly separate provisions for widows and widowers to receive a gratuity instead of a pension (article 48);

- to require a lump sum relating to a payment of periodical contributions for increased benefits to be paid within 3 months of the commencement of periodical contributions (article 71);
- to allow a child’s ordinary allowance to be paid in certain circumstances where a serviceman dies during his forces period or from an injury sustained during that period (article 80);
- to enable the Authority to review all cases where a fireman has received early payment of a deferred pension due to permanent disablement (article 94);
- to prevent the Authority withdrawing a pension under Part C (Awards on death – spouses or civil partners) from a regular fireman who is entitled to it whilst serving as such (article 97);
- to provide that where both parents of a child were firemen and have died, the child may receive a pension in respect of both parents (article 101);
- to enable civil partners to qualify for survivor benefits under the Scheme on the same basis as spouses;
- amendment to the provisions in article 101, which prevents duplication of certain injury awards. The main change of substance is to prevent duplicate injury awards in cases where the individual is employed as both a regular fireman and as a retained fireman. A new article 102 is introduced to deal expressly with the prevention of duplication in those cases;
- the insertion of a new Part N and new material consequential on section 270 of the Finance Act 2004, which requires pension schemes to identify a scheme administrator to the Inland Revenue;
- the amendment of the definition of “independent qualified medical practitioner” in Part I of Schedule 1 to the Scheme, to reflect a change in the meaning of “a competent authority” brought about by the General and Specialist Medical Practice (Education, Training and Qualifications) Order 2003 (S.I. 2003/1250, amended by S.I. 2004/1947)
- to make legislative provision for the re-deployment of personnel where opportunity exists;
- to make changes to require an appellant, in certain circumstances, to pay the costs when he withdraws an appeal to the independent medical referee (see Schedule 9); and
- to make a minor clarification to article 21 (commutation – general provision).

Some of the amendments take effect from a date before the making of the Order by virtue of Article 10(4) of the Fire Services (Northern Ireland) Order 1984. Amendments in relation to the following articles, and any matter incidental to them, in the principal Order shall, therefore, have effect as follows:

- article 28 (spouse’s or civil partner’s ordinary pension) shall have effect from 6th April 1997;
- articles 32 and 33 shall have effect from 1st March 1992;
- articles 55 and 67, in so far as they relate to maternity leave, shall have effect from 23rd June 1994;
- articles 55 and 67, in so far as they relate to adoption and paternity leave, shall have effect from 8th December 2002; and
- article 80 (awards on death of servicemen) shall have effect from 1st March 1992.

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

Also provided are provisions as set out in the table below:

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<i>2005 provisions</i>	<i>Corresponding 1973 provisions</i>	<i>Subject</i>	<i>Variations</i>
r. article 7(2)	—	Apportionment of service credit by reference to date.	New provision.
r. article 11(2)	Art. 3(2)	Injury occasioning infirmity.	Includes injury substantially contributing to infirmity.
r. article 17(1)	Art. 10(1)	Ill-health award.	Payable only where retirement compulsory.
r. article 21(7)	Art. 17(4)	Notice to commute pension.	May be given 4 (instead of 2) months before retirement.
r. article 22	Art. 17A	Commutation of small pensions	Maximum commutable pension increased.
r. article 28(1)	Art. 18	Spouse's or civil partner's ordinary pension.	Payable in additional case (death while in receipt of injury pension after ill-health pension discontinued).
r. article 31	Art. 21	Spouse's or civil partner's accrued pension.	Payable even if deceased's deferred pension commuted.
r. article 33(3)	Art. 23A(2)	Surviving spouse's or civil partner's temporary pension.	In calculating pension, deceased's pensions, if more than one, to be aggregated and account to be taken of any statutory increases.
r article 38(1)	Art. 29(1)	Child's ordinary allowance.	Payable in same additional case as spouse's or civil partner's ordinary pension.
r. article 48(1)	Art. 22(1)	Commutation of spouse's or civil partner's pension for gratuity.	Maximum commutable pension increased.
r. article 48(2)	Art. 22(2)	Same.	Excess over guaranteed minimum commutable only in case of ordinary or special pension.

<i>2005 provisions</i>	<i>Corresponding 1973 provisions</i>	<i>Subject</i>	<i>Variations</i>
r. article 49(1)	Art. 33(1)	Commutation of child's allowance for gratuity.	Child may consent where there is no parent or guardian.
r. article 50	Sch. 2, Part V Sch. 3, Part IV	Increases for spouses or civil partners and children during first 13 weeks.	Deceased's pensions, if more than one, to be aggregated and account to be taken of any statutory increases.
r. article 100(8)	Art. 63(8)	Payment of gratuities.	Payment may be deferred pending determination of Authority's liability.
r. article 102(2)	Art. 64(2)	Awards: payment where person entitled is incapable.	Authority's choice of payee widened.
r. article 102(3)	Art. 64(3)	Payment without proof of title.	Not to exceed amount specified under 1967 C 5 (N.I) currently £5000.
Sch. 3, Part IV	Sch. 2, Part IX	Pension for widow of post-retirement marriage.	Rate linked to that of special award where one would otherwise have been payable.
Sch. 5, Part III	Sch. 3, Part V Art. 12D	Commutation of child's allowance for gratuity. Transitional award.	Child may agree amount where there is no parent or guardian. Not reproduced: award not in conformity with current requirements of the Pension Schemes (Northern Ireland) Act 1993.

This Order finally revokes the Orders specified in Part II of Schedule 13 to the Order. These had brought into operation, or varied, the Firemen's Pension Scheme Order (Northern Ireland) 1971, and had previously been revoked subject to savings preserving their effect for old cases. Schedule 12 to the 2006 Scheme contains provision for continuing any remaining effect of the savings.