CHAPTER 47.

An Act to make provision respecting the retirement, pensions, allowances and gratuities of professional firemen who are members of fire brigades in Great Britain, and their widows, children and dependants. [31st July 1925.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled and by the authority of the same, as follows:—

RETIREMENT AND PENSIONS.

Compulsory retirement.

1.—(1) Retirement shall be compulsory for professional firemen of all ranks on attaining the age of sixty, except that in special cases the local authority may extend any such person's service for a further period on being satisfied that such extension would be in the interests of efficiency.

(2) Retirement shall also be compulsory for any professional fireman who, having become entitled to retire without a medical certificate and receive an ordinary pension, is required to retire by the local authority on the ground that his retention in the brigade would not be in the interests of efficiency.

Pensions and gratuities of professional firemen.

2.—(1) Subject to the provisions of this Act, every professional fireman—

(*a*) if he has completed twenty-five years' approved service, and has attained the age of fifty-five, and has given three months' written notice, or such shorter notice as the local authority may accept, to the local authority of his intention to retire, shall be entitled, on the expiration of such notice, without a medical certificate to retire and receive an ordinary pension for life; and

(*b*) if he has completed ten years' approved service, and is incapacitated for the performance of his duty by infirmity of mind or body, shall be entitled on a medical certificate to retire and receive an ordinary pension for life; and

(*c*) if at any time he is incapacitated for the performance of his duty by infirmity of mind or body occasioned by an injury received in the execution of his duty without his own default, shall be entitled on a medical certificate to retire and receive a special pension for life; and

(*d*) if he has not completed ten years' approved service, and is incapacitated for the performance of his duty by infirmity of mind or body not occasioned by such injury as aforesaid, shall be entitled on a medical certificate to retire and receive a gratuity.

(2) Where a professional fireman is compelled to retire under this Act on the ground of age, then—

(*a*) if he is not entitled without a medical certificate to retire and receive a pension, he shall be entitled to receive such ordinary pension or gratuity as he would have been entitled to receive had he then retired on a medical certificate;

(*b*) any pension or gratuity to which he is entitled shall be payable as from his retirement, and no notice of intention to retire shall be required.

(3) A chief officer appointed after the commencement of this Act shall not, except with the consent of the local authority, be entitled to retire without a medical certificate and receive an ordinary pension, unless at the time of his retirement he has attained the age of sixty.

(4) No gratuity shall be payable to a professional fireman who retires before the expiration of any period of probationary service.

Pensions, allowances and gratuities to widows, children and dependants.

3.—(1) Subject to the provisions of this Act, where a professional fireman dies while serving in the fire brigade from the effects of an injury received in, or disease resulting from, the execution of his duty without his own default, or having been granted a pension in respect of any such injury or disease, whether before or

after the commencement of this Act, dies from the effects of such injury or disease—

(*a*) his widow shall be entitled, where the injury was accidental or where death was due to disease resulting from the execution of his duty, to a widow's ordinary pension, and where the injury was non-accidental, to a widow's special pension;

(*b*) his children under sixteen years of age shall be entitled to allowances until they severally reach the age of sixteen years; and

(*c*) the local authority may, if they think fit, grant a gratuity to any relative of his who has been wholly or mainly dependent upon him.

(2) Where the widow of a professional fireman is entitled to a pension, or a child of a professional fireman is entitled to an allowance, under this Act, and the local authority are satisfied that there are special reasons for the grant of a gratuity in lieu thereof, the local authority may at their discretion grant a gratuity accordingly, subject to the consent of the man's widow or, if he leaves no widow, the guardian of the child, as the case may be.

Pension and compensation not payable for same injury.

4. When a professional fireman is entitled to receive a pension on the ground that he is incapacitated in the performance of his duty by infirmity of mind or body occasioned by an injury, or the widow or any child of a professional fireman is entitled to receive a pension or an allowance in consequence of his dying from the effects of an injury, neither the fireman nor his widow or personal representatives shall be entitled to receive compensation or damages from the local authority in respect of the same injury or the consequences thereof.

Scales of pensions, allowances and gratuities.

5. The pensions, allowances and gratuities payable under this Act shall be in accordance with the scales and provisions contained in the Schedule to this Act, and the general rules contained in Part III. of that schedule shall apply to such pensions, allowances and gratuities.

APPROVED SERVICE.

Service to be reckoned for pension.

6.—(1) The service of a professional fireman for the purposes of this Act shall be subject to such deductions in respect of sickness, misconduct, or neglect

of duty as may be made therefrom in pursuance of any regulations affecting the brigade to which he belongs, not exceeding the period during which he is absent from duty on account of sickness, misconduct or neglect of duty, as the case may be; and, subject to the provisions of this Act as to professional firemen who were serving as such at the commencement of this Act, the expression "approved service" shall, for the purposes of this Act, mean such service as may, after such deductions as aforesaid (if any), be certified by the chief officer of the fire brigade with the approval of the local authority to have been diligent and faithful service, but shall not include service before attaining the age of twenty years, except in the case of a fireman who before attaining that age is incapacitated for the performance of his duty by infirmity of mind or body occasioned by an injury received in the execution of his duty without his own default.

(2) Where a deduction is made from the service of a professional fireman in respect of sickness, misconduct, or neglect of duty, notice of the deduction shall be given to him as soon as may be after the occurrence of the cause for which the deduction is made; and he may appeal to the local authority against any act of his chief officer which prevents him from reckoning any period of actual service as approved service, and any period of actual service allowed on such appeal shall be deemed to be approved service.

Continuous service in two or more fire brigades.

7.—(1) Where a professional fireman has served in more than one fire brigade and has completed not less than one year's approved service as a professional fireman in any fire brigade from which, after the commencement of this Act, he has, with the written sanction of the local authority, removed to another brigade, such approved service shall be reckoned as approved service in the brigade in which he was serving at the time of his death or retirement.

(2) Where any professional fireman who is entitled under this section to reckon any previous service in another brigade, or his widow or any child or any dependant of his, in due course is granted a pension, gratuity or allowance, the local authority in whose

service he then is, or was at the time of his death or retirement, shall be entitled to call upon the other local authority or authorities and they shall contribute a proportionate part of any pension, gratuity or allowance granted to him or his widow or any such child or dependant, reckoned according to his approved service and pay during his service in such brigade, and the said proportionate part shall be settled by agreement between the local authorities, or in default of agreement by an arbitrator appointed by the Secretary of State.

Discontinuous service in one or more brigades, &c.

8.—(1) Where a professional fireman, who has retired from a fire brigade without a pension, subsequently, after the commencement of this Act, rejoins the same fire brigade, there shall be reckoned as approved service the period of approved service which he was entitled to reckon at the end of his previous service, if he repays to the local authority the amount of any gratuity which may have been granted to him, or of any rateable deductions from his pay which may have been paid to him by the local authority in respect of his previous service.

(2) Where a professional fireman, who has retired without a pension from a fire brigade in which he was employed as a professional fireman or from a police force as a member of which he was employed as a whole-time fireman, subsequently, after the commencement of this Act, takes service as a professional fireman in a fire brigade, the local authority of that brigade may, if they think fit, allow the period of approved service, not being less than one year, which he was entitled to reckon at the end of his service in the first mentioned brigade, or the police force, to be reckoned as approved service, if he pays or has paid to the local authority of the fire brigade in which he has taken service the amount of any gratuity which may have been granted to him, or of any rateable deductions from his pay which may have been paid to him, in pursuance of this Act, or, if he retired from a fire brigade before the commencement of this Act, or from any police force, the amount of any rateable deductions which would have been made from his pay in respect of his previous service if this Act had been in force during such service and had been applicable thereto.

(3) Payments by a professional fireman under this section shall be effected by means of deductions from pay, or otherwise as the local authority may determine.

Service of men belonging to reserve forces.

9. Where a professional fireman with the knowledge of the local authority or of the chief officer of the brigade belongs to any royal naval reserve force or army reserve or air force reserve, and is required for training or for permanent service, he shall be entitled, on returning to the fire brigade after the end of such training or service, to reckon any approved service which he was entitled to reckon at the commencement of such training or service; and his period of training or service and any period during which he was incapacitated for fire duty owing to an injury received during his period of training or service without his own default, shall be reckoned in the computation of the approved service.

GRANT, REVISION, FORFEITURE AND OFFENCES IN RESPECT OF PENSIONS.

Proof of incapacity for duty, liability to serve again and revision of pension.

10.—(1) Before granting a pension or gratuity on the ground that a professional fireman is incapacitated by infirmity of mind or body for the performance of his duty, the local authority shall be satisfied by the evidence of some duly qualified medical practitioner or practitioners, selected by the local authority, that he is so incapacitated, and that the incapacity is likely to be permanent.

(2) Where the application is for a special pension, the local authority shall also be satisfied that the injury was received in the execution of duty, that it was received without the default of the applicant, and that the infirmity is attributable to the injury, and shall determine whether the injury was accidental or not, and the degree of disablement; and, for the purpose of determining any of the said questions which ought to be determined on medical grounds, shall take the like evidence as above mentioned.

(3) Where any pension is granted on the ground of incapacity for the performance of duty, the local authority shall, yearly or otherwise, until the power under this section of requiring the pensioner to serve again ceases, satisfy themselves that the incapacity continues, and, unless they resolve that such evidence is unnecessary,

shall satisfy themselves by the like evidence as above mentioned.

(4) In the event of the incapacity ceasing before the time at which the pensioner would, if he had continued to serve, have been entitled without a medical certificate to retire and receive a pension for life, the local authority may cancel his pension and require him to serve again in the fire brigade, in a rank not lower than the rank which he held before his retirement, and at a rate of pay not less than that on which his pension was calculated.

(5) Where a pensioner so serves again, the provisions of this Act shall apply as if he had not previously retired, save that, except where the pension was granted in respect of a non-accidental injury received in the execution of duty, he shall not reckon as approved service the time which elapsed between his former retirement and the recommencement of his service.

(6) Any special pension shall be granted for such period as may be fixed by the local authority, and, if at the expiration of that period the degree of disablement is unaltered, the pension shall, at the discretion of the local authority, be either renewed from time to time or made permanent. If within five years of the pensioner's retirement or at any time before the pension is made permanent the local authority are satisfied by the evidence of a duly qualified medical practitioner that the degree of the pensioner's disablement has substantially altered, the pension shall be reassessed according to the degree of disablement.

(7) If a professional fireman or pensioner refuses or wilfully or negligently fails, when required by the local authority, to be examined by some duly qualified medical practitioner selected by that authority, the local authority may deal with him in all respects as if they were satisfied by the evidence of such a practitioner as to whether he is incapacitated for the performance of duty or, as the case may be, as to the degree of his disablement.

(8) (*a*) Where, for the purposes of this section, any person is medically examined by a medical practitioner selected by the local authority, and is dissatisfied with his opinion on any medical question, he may appeal in accordance with rules made by the Secretary of State,

to an independent person nominated by the Secretary of State.

(*b*) The local authority shall be bound by the decision of any medical question which is determined on any such appeal, but, subject to this provision, the decision of the local authority on any question arising under this section shall be final.

Power to reduce pensions where infirmity is due to misconduct.

11. Where a professional fireman retires on account of infirmity of mind or body, whether occasioned by injury or otherwise, and the local authority are satisfied that he has brought about or contributed to the injury or infirmity by his own neglect, default or vicious habits, the local authority may, in their discretion, reduce the amount of his pension or gratuity by an amount not exceeding one-half of that to which he would be otherwise entitled.

Assignment of pensions and regulations as to payment of pensions,&c.

12. The following provisions shall have effect with respect to every pension, allowance or gratuity (in this section referred to as a grant) payable by the local authority to any person (in this section referred to as a pensioner):—

(1) Every assignment of and charge on a grant, and every agreement to assign or charge a grant, shall, except so far as made for the benefit of the family of the pensioner, be void, and on the bankruptcy of the pensioner the grant shall not pass to any trustee or other person acting on behalf of the creditors:

(2) Where any parochial relief is given to a pensioner or to anyone whom the pensioner is liable to maintain, the local authority may pay the whole or any part of the grant, or of the instalment thereof next due, to the guardians or other authority giving the relief, and any sum so paid may be applied in repayment of any sums expended in such relief, and subject thereto, shall be paid or applied by the guardians or other authority to or for the benefit of the pensioner:

(3) If the pensioner neglects to maintain any person whom the pensioner is liable to maintain, the local authority may in their discretion pay or apply the whole or any part of the grant to or for the benefit of that person:

(4) Where any sum is due from the pensioner to the local authority, the local authority may deduct the amount of any such sum from the grant:

(5) If the pensioner appears to the local authority to be insane or otherwise incapacitated to act, the local authority may pay so much of the grant as they think fit to the institution or person having the care of the pensioner, but shall in such case pay the surplus (if any) for or towards the maintenance and benefit of the dependants (if any) of the pensioner except so far as the said surplus may be otherwise applied for the benefit of the pensioner:

(6) On the death of a pensioner to whom a sum not exceeding one hundred pounds is due on account of a grant, then, if the local authority so direct, probate or other proof of the title of the personal representative of the deceased may be dispensed with, and the sum may be paid or distributed to or among the persons appearing to the local authority to be beneficially entitled to the personal estate of the deceased pensioner or to or among any one or more of those persons as the local authority may think fit, and the local authority, and any officer of the local authority making the payment, shall be discharged from all liability in respect of any such payment or distribution:

(7) Every grant which is a pension or allowance shall be paid, after the first instalment, in advance, except in the case of refusal to quit fire brigade quarters or any premises owned or rented by or on behalf of the local authority, or to give up any equipment, or to make any payment due to the local authority; but, where a person dies whilst in receipt of a grant paid in advance, no return shall be required of any payments which have been made in respect of any period after his death:

(8) Any sum payable to a minor on account of a grant may be paid either to the minor or to such person and on such conditions for the benefit of the minor as to the local authority seems expedient:

(9) Where a payment is made to any person by a local authority in pursuance of this section, the receipt of that person shall be a good discharge to that authority for the sum so paid.

Forfeiture of pension or allowance.

13.—(1) A pension or allowance under this Act is granted only upon condition that it becomes forfeited, and may be withdrawn by the local authority, in any of the following cases, that is to say, if the grantee—

(*a*) is convicted of any offence and is sentenced to penal servitude or to imprisonment for a term exceeding one month; or

(*b*) knowingly associates with thieves or reputed thieves; or

(*c*) enters into or continues to carry on any business, occupation or employment which is illegal, or in any way makes use of the fact of his former employment in the fire brigade in a manner which the local authority consider to be discreditable or improper.

(2) Such forfeiture and withdrawal may affect the pension or allowance wholly or in part, and may be permanent or temporary, as the local authority may determine.

Penalty for obtaining pension, &c. by fraud.

14. If a person obtains or attempts to obtain for himself or for any other person—

(*a*) any pension, gratuity, or allowance under this Act, or any payment on account thereof; or

(*b*) the return of any rateable deductions from pay under this Act;

by means of any false declaration, false certificate, false representation, false evidence or personation, or by malingering or feigning disease or infirmity, or by maiming or injuring himself, or causing himself to be maimed or injured, or otherwise producing disease or infirmity, or by any other fraudulent conduct, he shall be liable on conviction on indictment to imprisonment for a term not exceeding two years, or on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding twenty-five pounds, and where a person has been convicted of an offence under this section the local authority may direct that he shall forfeit, in whole or part, any pension, gratuity, allowance or other sum so obtained.

Appeal in case of forfeiture or refusal of pension, gratuity or allowance.

15.—(1) Where—

(*a*) a pension or allowance after being granted has subsequently in pursuance of this Act been declared to have been forfeited; or

(*b*) any person claims as of right a pension, allowance or gratuity under this Act, and the local authority do not admit the claim; or

(*c*) any person claims as of right a pension, allowance or gratuity under this Act larger than that granted to that person;

the person aggrieved may apply to the local authority for a re-consideration of the case, and, if aggrieved by the decision upon such re-consideration, may apply to the next practicable court of quarter sessions for the county or borough within which the professional firemen concerned last served, and that court, after inquiry into the case, may make such order in the matter as appears to the court just; but nothing in this section shall confer a right to appeal against the exercise of any discretion, or against any decision which is declared by this Act to be final.

(2) An appeal shall lie on a point of law from any decision of quarter sessions under this section to the High Court in accordance with rules of court, and the decision of the High Court shall be final, but in all other respects the decision of the quarter sessions shall be final.

Suspension of pension in case of service under a local authority.

16. Where a person in receipt of a pension from a local authority under this Act takes service under any local authority in any capacity, his pension may be suspended by the first-mentioned authority in whole or in part so long as he remains in that service.

RATEABLE DEDUCTIONS.

Rateable deductions from pay.

17. The local authority of every fire brigade shall deduct from the pay of every professional fireman sums at the rate of five per cent. of his pay (in this Act referred to as rateable deductions).

Return of rateable deductions.

18.—(1) Where a professional fireman not having been dismissed or required to retire as an alternative to dismissal, leaves the brigade without a pension or gratuity, the local authority, except where he leaves it in such circumstances as will enable him to reckon his approved service in the fire brigade for the purpose

of pension, shall pay him the whole of the rateable deductions which have been made from his pay.

(2) Where a professional fireman is required to retire as an alternative to dismissal, the local authority may, if they think fit, pay him the whole or any part of such rateable deductions as aforesaid, or apply the same in such manner as they think fit for the benefit of his wife or children (if any), and, where a professional fireman is dismissed, the local authority may, if they think fit, apply the whole or any part of such rateable deductions as aforesaid in such manner as they think fit for the benefit of his wife or children (if any).

GENERAL.

Saving of right of dismissal and reduction in rank.

19. Nothing in this Act shall prejudice any existing right of dismissing a professional fireman, or requiring him to retire as an alternative to dismissal, or reducing him to any lower rank or lower rate of pay, or shall prevent his claim to pension from being refused on account of misconduct, or on account of any of the grounds on which his pension, if granted, would be liable to be forfeited and withdrawn.

Fire brigade pension fund.

20.—(1) Subject as hereinafter provided, the local authority shall establish and administer a fire brigade pension fund to which shall be carried and credited—

(*a*) the amounts deducted by the local authority under this Act from the pay of professional firemen;

(*b*) an equal amount transferred by the local authority from the district or other fund from which the other expenses of the fire brigade are defrayed;

(*c*) the dividends and interest arising out of the investment or use of the fire brigade pension fund, or any part thereof;

(*d*) any sums transferred by the local authority from any other pension or superannuation fund in pursuance of this Act;

(*e*) any sums paid to the local authority by professional firemen in pursuance of this Act; and

(*f*) any other sums which the local authority may resolve to carry to such fund from the district or other fund from which the expenses of the fire brigade are defrayed:

Provided that in the case of any local authority employing less than ten professional firemen the provisions of this Act with regard to the establishment of a fire brigade pension fund shall not apply unless the local authority so resolve, and where no such pension fund is established the payments mentioned in paragraphs (*a*), (*c*), (*d*), and (*e*) of this subsection shall be made to the district or other fund from which the expenses of the fire brigade are defrayed.

(2) Subject as hereinafter provided, all payments under this Act by a local authority to professional firemen, their widows, children, or dependants, or to another local authority, shall be made from the fire brigade pension fund or, if no such fund is established, from the district or other fund from which the other expenses of the fire brigade are defrayed.

(3) The local authority may use for the purpose of any statutory borrowing power possessed by them any moneys forming part of the fire brigade pension fund and not for the time being required for payments to be made under this Act, subject to the following conditions:—

(*a*) the moneys so used shall be repaid to the fire brigade pension fund within the period, under the conditions and out of the fund, rate, or revenue within, under, and out of which a loan raised under the statutory borrowing power would be repayable;

(*b*) interest shall be paid to the fire brigade pension fund on any moneys so used and for the time being not repaid to the fund, and shall be calculated at a rate per cent. per annum to be determined by the local authority and equal as nearly as may be to the rate of interest which would be payable on a loan raised on mortgage under the statutory borrowing power, and shall be paid out of the fund, rate, or revenue which would be applicable to the payment of interest on a loan raised under the statutory borrowing power; and

(*c*) the statutory borrowing power for the purpose of which the moneys are so raised shall be deemed to be exercised by such use as fully in all respects as if a loan of the same amount had been raised in exercise of the power.

(4) The surplus of the annual income of the fire brigade pension fund above the expenditure thereout shall from time to time be invested in securities in which trustees are by law authorised to invest trust funds, or be used in the manner hereinbefore provided, and the income arising from time to time from such investment or use shall be paid into that fund.

(5) If at any time the income of the fire brigade pension fund is insufficient to meet the sums payable out of the fund, the deficiency may be met by the sale of investments made under the preceding subsection, provided that the value of the investments sold in any one year ending on the thirty-first day of March shall not exceed one-tenth of the total capital assets of the fund at the commencement of that year, and the balance of the deficiency shall be met from the district or other fund from which the other expenses of the fire brigade are defrayed.

Application to chief officers of fire brigades.

21. The provisions of this Act, unless otherwise expressly stated, shall apply to a chief officer of a fire brigade in like manner, so nearly as circumstances admit, as they apply to any other professional fireman, except that the certificate of approved service and the sanction to removal from one brigade to another may be given by the local authority.

Application to serving professional firemen.

22.—(1) Save as hereinafter expressly provided, this Act shall apply to professional firemen who were serving as such at the commencement of this Act, provided as follows:—

(*a*) Any such fireman serving at the commencement of this Act shall be entitled to reckon as approved service for the purpose of the grant of pensions, allowances and gratuities under this Act any past pensionable service as hereinafter defined, but so that any such period of past pensionable service which has not been contributory service as hereinafter defined shall be reckoned as half that period of approved service;

(*b*) "Past pensionable service" shall include any service before the commencement of this Act

(after reaching the age of twenty years) which is—

(i) service as a professional fireman in the same fire brigade or previous service which was continuous or practically continuous therewith as a professional fireman in another fire brigade, if such service is certified by the chief officer of the fire brigade or by the local authority to have been diligent and faithful service; or

(ii) approved service as a whole-time fireman to whom, as being a member of a police force employed as a fireman, the Police Act, 1890, or the Police Pensions Act, 1921, applied, if such service was continuous or practically continuous with his service as a professional fireman; or

53 & 54 Vict. c. 45. 11 & 12 Geo. 5. c. 31.

(iii) any other previous service as a whole time fireman which the local authority may approve as past pensionable service for the purposes of this section:

Provided that nothing in this section shall be deemed to affect any agreement made between a professional fireman and the local authority as to the reckoning of any previous service as approved service:

(2) Notwithstanding the foregoing provisions of this section, the pension or gratuity granted to any professional fireman who is serving at the commencement of this Act and whose past pensionable service was not wholly contributory service, may be increased, at the discretion of the local authority, to an amount not exceeding the pension or gratuity to which such professional fireman would have been entitled if his past pensionable service had not been subject to any reduction in reckoning his approved service, if such professional fireman pays to the local authority such sum as the local authority may fix, not exceeding the amount of the rateable deductions which would have been made from his pay during the period of his past pensionable service which was not contributory service if

this Act had been in force during such non-contributory service and had been applicable thereto:

(3) Where, in pursuance of the provisions of the preceding subsection, the pension or gratuity granted to a professional fireman exceeds any pension or gratuity which might have been granted if he had been entitled to reckon only his contributory service for purposes of pension, any such excess shall be paid out of the district or other fund from which the other expenses of the fire brigade are defrayed and not out of the fire brigade pension fund:

(4) For the purposes of this section, "contributory service" means service in respect of which deductions from pay have been made under the Local Government and Other Officers' Superannuation Act, 1922, or under the Police Act, 1890, or the Police Pensions Act, 1921, or other regular contributions have been made by the fireman under a superannuation scheme, provided that, if the deductions or other contributions in respect of any service have been returned, or a gratuity has been granted to the fireman on his retirement, such service shall be deemed to be contributory service only if the professional fireman pays to the local authority the amount of the gratuity granted to him, or of the deductions or other contributions returned to him, as the case may be: 12 & 13 Geo. 5. c. 59.

(5) The provisions of subsection (1) of section one of this Act as to the age of compulsory retirement shall not apply to any professional fireman so serving at the commencement of this Act unless and until he has completed twenty-five years' approved service.

23. For the purposes of this Act— Interpretation.

(1) "Local authority" includes the council of any county, county borough, municipal borough, urban district, rural district or parish, and in relation to any particular professional fireman means the local authority employing such fireman:

(2) "Professional fireman" means any member of a fire brigade maintained by a local authority who is wholly and permanently employed on fire brigade duties, and to whom the Police Pensions Act, 1921, does not apply:

(3) "Chief officer" shall include "firemaster," "superintendent," or such other title as is given by the local authority to the chief officer of the fire brigade:

(4) The expression "total disablement" means total loss of earning capacity in any employment, and, in the case of partial disablement, the degree of disablement shall be based upon the degree to which earning capacity is affected:

(5) Any injury suffered by a professional fireman while on duty or while proceeding to report for duty in response to a summons in that behalf shall be deemed to be an injury received in the execution of his duty:

(6) Any injury received while engaged in extinguishing a fire or while engaged in drill involving special risk, shall be deemed a non-accidental injury.

Act to supersede other Acts, &c.

24.—(1) The provisions of this Act shall have effect notwithstanding anything in any other Act, general or local, or charter, to the contrary, and as from the commencement of this Act all other provisions for the grant of pensions, allowances, or gratuities on the retirement or death of professional firemen shall cease to have effect as respects such firemen, subject however as follows:—

(*a*) None of the provisions of this Act excepting the provisions contained in section seven and subsections (2) and (3) of section eight shall apply to members of the London Fire Brigade, and section seven shall apply to a professional fireman removing to or from the London Fire Brigade;

(*b*) Where a local authority have in operation any scheme for the grant of pensions, allowances, or

gratuities on the retirement or death of professional firemen, which is on the whole not less favourable than the provisions of this Act, that scheme shall, unless and until the local authority otherwise resolve, continue in operation, and any pension, allowance, or gratuity granted to a professional fireman or to his widow, children, or dependants shall be in accordance with that scheme and not as provided in this Act;

(*c*) In the event of any question arising as to whether any existing scheme is or is not less favourable than the provisions of this Act, the question shall be referred to an actuary nominated by the Secretary of State whose decision shall be final.

(2) Where any scheme for the grant of pensions, allowances, or gratuities on the retirement or death of a professional fireman, is superseded by the provisions of this Act, either wholly or as respects any professional fireman, the local authority shall give written notice of the provisions of this Act to any professional fireman then serving in the fire brigade, and if any professional fireman within one month after receiving such notice gives written notice to the local authority that he desires the scheme to continue to apply to him in lieu of the provisions of this Act, that scheme shall continue to apply to him accordingly, and the amount of any pension, allowance, or gratuity granted to him or to his widow, children, or dependants, and the amount of any deductions made from his pay or other contributions towards the cost of pensions shall be as provided in such scheme as aforesaid and in lieu of any grant or rateable deductions which would otherwise have been made in pursuance of this Act.

(3) Where any existing superannuation scheme is superseded by the provisions of this Act, either wholly or as respects any professional fireman, the following provisions shall apply:—

(*a*) If such scheme is wholly superseded, any assets of any fund established in connection with such scheme shall be carried to the fire brigade

pension fund established as provided by this Act or, if no such fund is established, to the district fund or other fund from which the expenses of the fire brigade are defrayed;

(*b*) If such scheme is superseded not wholly but as respects any professional fireman, then there shall be transferred from the superannuation fund or other fund from which pensions are paid in pursuance of such scheme to the fire brigade pension fund or, if there is no such fund, to the district or other fund from which the expenses of the fire brigade are defrayed, a sum equal to the sum or sums which would have been payable to the professional fireman under such scheme if he had voluntarily retired from the fire brigade at the date when such scheme ceases to apply to him.

Application to Scotland.

25. This Act shall apply to Scotland, subject to the following modifications:—

(*a*) The Court of Session shall be substituted for the High Court, and the Secretary for Scotland shall be substituted for the Secretary of State;

(*b*) Local authority shall mean a county council or a town council;

(*c*) In the application of the section of this Act relating to appeal in case of forfeiture or refusal of pension, gratuity or allowance, for references to the next practicable court of quarter sessions for the county, or burgh, within which the professional fireman last served, there shall be substituted references to the sheriff having jurisdiction in the place where the professional fireman last served, and for references to quarter sessions there shall be substituted references to the sheriff.

Short title and commencement.

26.—(1) This Act may be cited as the Fire Brigade Pensions Act, 1925.

(2) This Act shall come into operation on the first day of April, nineteen hundred and twenty-six.

SCHEDULE.

Section 5.

SCALES OF PENSIONS, ALLOWANCES AND GRATUITIES.

PART I.

FIREMEN.

(a) *Ordinary Pensions.*

1. *On retirement with twenty-five years' approved service or over.*—Such proportion of the annual pay as is specified in scale number 1, set out in the subjoined Table I., but so, however, that the amount of such pension shall not exceed the proportion of the annual pay specified in Table II., according to the age of the professional fireman at the date of his retirement.

2. *On retirement with ten years' approved service or over with medical certificate.*—Such proportion of the annual pay as is specified in scale number 2, set out in Table I.

(b) *Special Pensions.*

3. *On total disablement from an injury in the execution of duty*—

(*a*) if the injury is non-accidental, such proportion of the annual pay as is specified in scale number 3 in Table I.;

(*b*) if the injury is accidental, such proportion of the annual pay as is specified in scale number 4 in the said table;

(*c*) if it is not possible to determine definitely whether the injury is accidental or non-accidental, such rate intermediate between the rates prescribed in the preceding paragraphs (*a*) and (*b*) as the local authority may determine.

4. *On partial disablement from an injury received in the execution of duty.*—Such proportion of the pension applicable in case of total disablement as the degree of disablement bears to total disablement:

Provided that the pension shall not be less than such proportion of the annual pay as is specified, if the injury was non-accidental, in scale number 5 in Table I., and otherwise in scale number 6 in the said table.

TABLE I.

Scales of Pensions.

Completed years of approved service.	Proportion of Pension to Pay on Retirement.					
	Scale No. 1. On retirement with 25 years' approved service or over.	Scale No. 2. On retirement with 10 years' approved service or over with medical certificate.	Scale No. 3. On total disablement from non-accidental injury received in execution of duty.	Scale No. 4. On total disablement from accidental injury received in execution of duty.	Scale No. 5. On partial disablement from non-accidental injury.	Scale No. 6. On partial disablement from accidental injury.
	60ths.	60ths.	60ths.	60ths.	60ths.	60ths.
1 or less	—	—	45	30	20	10
2 -	—	—	45	30	20	10
3 -	—	—	45	30	20	10
4 -	—	—	45	30	20	10
5 -	—	—	45	30	20	10
6 -	—	—	45	30	20	10
7 -	—	—	45	30	20	10
8 -	—	—	45	30	20	10
9 -	—	—	45	30	20	10
10 -	—	10	45	30	20	10
11 -	—	11	48	32	21	11
12 -	—	12	48	32	22	12
13 -	—	13	48	32	23	13
14 -	—	14	48	32	24	14
15 -	—	15	48	32	25	15
16 -	—	16	51	34	26	16
17 -	—	17	51	34	27	17
18 -	—	18	51	34	28	18
19 -	—	19	51	34	29	19
20 -	—	20	51	34	30	20
21 -	—	21	54	36	31	21
22 -	—	22	54	36	32	22
23 -	—	23	54	36	33	23
24 -	—	24	54	36	34	24
25 -	*25	25	54	36	35	25
26 -	*26	26	57	38	36	26
27 -	*27	27	57	38	37	27
28 -	*28	28	57	38	38	28
29 -	*29	29	57	38	39	29
30 -	*30	30	60	40	40	30
31 -	*32	32	60	40	40	32
32 -	*34	34	60	40	40	34
33 -	*36	36	60	40	40	36
34 -	*38	38	60	40	40	38
35 or over	*40	40	60	40	40	40

* Subject to the maximum limits specified in paragraph 1 of this Schedule and Table II., according to the age of the professional fireman at the date of his retirement.

TABLE II.

Maximum proportions of Pension to Pay, according to the Age of the Professional Fireman.

Age of fireman at retirement.	Maximum proportion of pension to pay at retirement.
Years.	60ths.
55 and less than 56	30
56 ,, 57	32
57 ,, 58	34
58 ,, 59	36
59 ,, 60	38
60 or over	40

(c) *Gratuities.*

5. *On retirement with medical certificate with less than ten years' approved service.*—The gratuity shall be an amount equal to one-twelfth of the annual pay for each completed year of approved service, or, where a professional fireman has not completed one year of approved service, an amount equal to the rateable deductions which have been made from his pay.

PART II.

WIDOWS AND CHILDREN.

(a) *Widow's Pensions.*

6. *Widow's ordinary pension.*—The pension shall be the amount specified under (i) or (ii) of the following scales whichever is the greater, that is to say—

Scale (i)—if her husband was a fireman or sub-officer at the time of his death or retirement, at the rate of 30*l.* a year;

if he was of a higher rank than sub-officer and of a lower rank than chief officer at the time of his death or retirement, at the rate of 40*l.* a year;

if he was a chief officer at the time of his death or retirement, at the rate of 50*l.* a year;

Scale (ii)—an amount ascertained according to the length of her husband's service and his pay at the time of his death or retirement as follows :—

Completed years of approved service.	Percentage of annual pay.
30 years or over	12½ per cent.
25 years and under 30	10 ,,
20 years and under 25	8 ,,
15 years and under 20	6 ,,
10 years and under 15	4 ,,

subject, however, in the case of the widow of a pensioner to a deduction equal to twenty-five per cent. of the amount for each complete year for which her husband's pension had been drawn.

7. *Widow's special pension.*—The pension shall be equal to one-third of her husband's annual pay at the time of his death or retirement.

(b) *Widow's Gratuities.*

8. The gratuity shall be of such amount as the local authority may determine, but not exceeding one-twelfth of her husband's annual pay for each completed year of approved service.

(c) *Children's Allowances.*

9. *Professional fireman or pensioner dying as the result of non-accidental injury received in the execution of duty.*—The allowance in respect of each child who has not attained the age of sixteen shall be an annual allowance, up to the time that child attains the age of sixteen, at the rate of one-fifteenth of the fireman's annual pay; and, if he leaves no widow or the widow dies before all the children attain the age of sixteen, the allowance may be increased up to two-fifteenths of such pay in respect of each child under sixteen; but in any case the allowance granted to any child shall not be less than the amount of the allowance to which that child would have been entitled under paragraph 10 of this Schedule if the professional fireman had died as a result of an accidental injury received in the execution of duty, and the aggregate amount paid in any year by way of children's allowances when added to the widow's pension, if any, shall not exceed two-thirds of such pay.

10. *Professional fireman or pensioner dying as a result of an accidental injury received in the execution of duty.*—The allowance in respect of each child who has not attained the age of sixteen shall be an annual allowance up to the time that child attains the age of sixteen at the rate of—

10*l.* in the case of a person who was a fireman or sub-officer at the time of his death or retirement;

12*l.* in the case of a person who was of a higher rank than sub-officer and of a lower rank than chief officer at the time of his death or retirement;

15*l.* in the case of a person who was a chief officer at the time of his death or retirement:

Provided the aggregate amount of such allowance in any year shall not exceed 30*l.*, 40*l.*, and 50*l.*, in the three cases respectively; but if he leaves no widow, or if the widow dies

before all the children attain the age of sixteen, the actual allowance or allowances and the aggregate amount of any such allowances may be increased by fifty per cent. above the sums hereinbefore mentioned.

(d) *Children's Gratuities.*

11. The gratuity shall be of such amount as the local authority may determine, not exceeding one-sixtieth of the annual pay for each completed year of approved service of the fireman or pensioner, but so that the total amount of any gratuity or gratuities granted to the children or to the widow and children and any dependants does not exceed one-twelfth of the annual pay for each completed year of approved service, and the total amount of any gratuities granted to the children shall not, in any case, exceed the annual pay.

(e) *Dependants' Gratuities.*

12. The total amount of any gratuity or gratuities paid to a dependant or dependants of a professional fireman or pensioner shall not exceed the amount of the rateable deductions which have been made from his pay, or in the case of a professional fireman or pensioner who was serving at the commencement of this Act or who retired before the commencement of this Act, as the case may be, the amount of the rateable deductions which would have been made from his pay if this Act had been in force during the whole of his service and had been applicable thereto.

PART III.

General Rules.

13. The same person shall not be entitled to a gratuity in addition to a pension or allowance, or to both an ordinary pension and a special pension.

14. A gratuity shall be paid in one sum, except that in special cases it may be paid by instalments or applied on behalf of the grantee if the local authority consider that it would be to the advantage of a widow, child or dependant to do so; and a child's allowance or gratuity or a dependant's gratuity may be paid to a guardian or trustee if the local authority consider that it would be to the advantage of the child or dependant to do so.

15. If the widow of a professional fireman was at the time of his death living apart from her husband (not having been deserted by him), a pension or gratuity shall be paid to her

only if the local authority are satisfied that he regularly contributed to her support; and the amount of a pension shall not, in such a case, exceed the amount which her husband contributed.

16. Subject to the provisions of this Act, the widow and children of a pensioner shall not receive any pension, allowance or gratuity unless the marriage took place before he retired on pension.

17. The payment of a widow's pension or the balance of a widow's gratuity shall, if at any time she re-marries, be suspended, but, in the event of her again becoming a widow, shall be resumed on proof to the satisfaction of the local authority that her circumstances are such that the pension or balance of gratuity is necessary for her support, and that she is of good character and deserving of bounty out of public funds.

18. A widow's pension or balance of a widow's gratuity shall be payable only so long as she is of good character.

19.—(*a*) In calculating any pension, gratuity or allowance for the purposes of this Act, "annual pay" means annual pay at the date of death or retirement as the case may require :

Provided that—

(i) where a professional fireman at the date of his death or retirement holds a rank to which he has been promoted within the three preceding years, his annual pay at the date of the death or retirement shall be deemed to be the average annual amount of pay received by him for the said three years, instead of the annual amount actually received by him at that date, so, however, that the pension, allowance or maximum gratuity payable shall not be less than if he had continued in his former rank; and

(ii) where the pay at the date of death or retirement was weekly pay, the amount of the annual pay shall be deemed to be fifty-two times the amount of the weekly pay.

(*b*) For the purpose of the foregoing provisions of this rule, the following only shall be recognised as ranks in a fire brigade, that is to say, chief officers (including superintendents in charge), second officers, superintendents, district officers, station officers, sub-officers and firemen :

Provided that in Scotland firemaster and lieutenant shall be also recognised as ranks.