STATUTORY INSTRUMENTS

1966 No. 1045

FIRE SERVICES

The Firemen's Pension Scheme Order 1966

Made - - - -	11*th August* 1966
Laid before Parliament	25*th August* 1966
Coming into Operation	26*th August* 1966

In exercise of the powers conferred on me by section 26 of the Fire Services Act 1947(a), as amended and extended by sections 1 and 2(1) of the Fire Services Act 1951(b), section 42 of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951(c) and section 8 of the Fire Services Act 1959(d), I hereby, with the approval of the Treasury and after consultation with the Central Fire Brigades Advisory Council and the Scottish Central Fire Brigades Advisory Council, make the following Order:—

1.—(1) The Firemen's Pension Scheme 1964 (set out in Appendix 2 to the Firemen's Pension Scheme Order 1964(e)) and the Orders set out in Appendix 1 to this Order shall cease to have effect save in relation to—

(*a*) any award or claim to an award on a person's retirement or dismissal or on his ceasing to serve in the armed forces of the Crown, before 26th August 1966;

(*b*) any award or claim to an award in respect of the death of a person before the said date;

(*c*) any pension or claim to a pension by the nominee of a fireman whose pension has been reduced before 26th August 1966 as a result of his having given notice of intention to surrender a portion thereof, being a pension actuarially equivalent to that surrendered portion;

(*d*) any undertaking to make payments in accordance with Schedule 5 to the said Scheme, as amended(f); and

(*e*) any certificate of pensionable service or entitlement to such a certificate under Article 36 of the said Scheme.

(2) In the preceding paragraph the expression "award" includes a repayment of contributions.

(3) Section 38 of the Interpretation Act 1889(g) shall apply in relation to the Firemen's Pension Scheme 1964 and the Orders set out in Appendix 1 to this Order, to the extent that they cease to have effect under this Article, as if this Article were an Act of Parliament and the said Scheme and Orders were Acts of Parliament repealed by an Act of Parliament.

(a) 1947 c. 41. (b) 1951 c. 27. (c) 1951 c. 65.
(d) 1959 c. 44. (e) S.I. 1964/1148 (1964 II, p. 2574).
(f) The amending Orders are not relevant to the subject matter of sub-paragraphs (*d*) and (*e*).
(g) 1889 c. 63.

2. The Pension Scheme set out in Appendix 2 to this Order (hereinafter referred to as the Firemen's Pension Scheme 1966) is hereby brought into operation.

3.—(1) The Firemen's Pension Scheme 1956 (set out in the Appendix to the Firemen's Pension Scheme Order 1956(a)), as amended(b), in so far as it continues to have effect under the Firemen's Pension Scheme Order 1964, shall do so as though any reference in Schedule 5 thereto to an award included a reference to an award under the Firemen's Pension Scheme 1966.

(2) The Firemen's Pension Scheme 1964, as amended(c), in so far as it continues to have effect under this Order, shall do so as though any reference in Schedule 5 thereto to an award included a reference to an award under the Firemen's Pension Scheme 1966.

4. This Order may be cited as the Firemen's Pension Scheme Order 1966 and shall come into operation on 26th August 1966.

Roy Jenkins,
One of Her Majesty's Principal Secretaries of State.

10th August 1966.

We approve,

George Lawson,
Joseph Harper,
Two of the Lords Commissioners of Her Majesty's Treasury.

11th August 1966.

(a) S.I. 1956/1022 (1956 I, p. 953).
(b) The relevant amending instrument is S.I. 1960/1848 (1960 II, p. 1471).
(c) S.I. 1965/604, 1905 (1965 I, p. 1914, III, p. 5748).

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APPENDIX 1

ORDERS REVOKED WITH SAVINGS

The Firemen's Pension Scheme Order 1964.	S.I. 1964/1148 (1964 II, p. 2574).
The Firemen's Pension Scheme (Amendment) Order 1965.	S.I. 1965/604 (1965 I, p. 1914).
The Firemen's Pension Scheme (Amendment) (No. 2) Order 1965.	S.I. 1965/1905 (1965 III, p. 5748).

Article 2

APPENDIX 2

THE FIREMEN'S PENSION SCHEME 1966

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PART I

AWARDS ON RETIREMENT OF REGULAR FIREMEN

Fireman's ordinary pension

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

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

Fireman's short service award

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

(2) In the case of a fireman entitled to reckon at least 10 years' pensionable service, the award under paragraph (1) shall be a short service pension calculated in accordance with Part II of Schedule 1, subject however to Parts III and IV of that Schedule.

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

(4) Every regular fireman who retires at or over the age of 65 years and is entitled to reckon at least 10 years' pensionable service but is not entitled to a pension or gratuity under any other provision of this Part of this Scheme shall be entitled to a short service pension calculated in accordance with Part II of Schedule 1, subject however to Parts III and IV of that Schedule.

Fireman's ill-health award

3.—(1) Every regular fireman who is incapacitated for the performance of his duty by infirmity of mind or body and retires on that account shall, if it appears that the incapacity is likely to be permanent, be entitled to an ill-health award as hereinafter provided.

(2) In the case of a fireman—

(*a*) who is entitled to reckon at least 10 years' pensionable service ; or

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

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

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

Fireman's special pension

4.—(1) Where—

(*a*) an ill-health pension is payable to a regular fireman on the ground that he has been incapacitated for the performance of his duty by infirmity of mind or body occasioned by a qualifying injury ; and

(*b*) the amount of that pension, when aggregated with the amount of any additional benefit from time to time payable to him, is less than the minimum injury award calculated in accordance with Part VII of Schedule 1,

he shall be entitled to a special pension of an amount equal to the deficiency.

(2) In this Article the expression " additional benefit " means—

(*a*) any injury benefit payable under the National Insurance (Industrial Injuries) Act 1965(a) which relates to the qualifying injury ;

(*b*) any disablement pension payable under section 12 of the National Insurance (Industrial Injuries) Act 1965 in respect of the qualifying injury at the rate mentioned in that section or so much of any such pension as relates to that injury, together with—

(i) any increase in such pension payable on account of unemployability or special hardship or in respect of children or adult dependants under section 13, 14, 17 or 18 of the said Act or, subject as hereinafter provided, so much of any such increase as is proportionate to that part of the said pension which relates to that injury,

(a) 1965 c. 52.

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

(*c*) any sickness benefit payable under the National Insurance Act 1965(a) until the first day after his retirement which is not, or is deemed not to be, a day of incapacity for work under section 20 of the said Act or regulations made thereunder.

(3) Where a disablement gratuity is payable to a person under section 12 of the National Insurance (Industrial Injuries) Act 1965 in respect of the qualifying injury, this Article shall apply as if a disablement pension were so payable to him during the relevant period, of such amount as would be produced by converting the gratuity into an annuity for that period.

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

(4) Where an ill-health pension payable to a person is reduced under Article 9 or 24 or in accordance with Part IV of Schedule 1, then, for the purposes of this Article, the pension shall be deemed not to have been so reduced.

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

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

(*a*) the sums paid in respect of the pension;

(*b*) any gratuity payable in respect of his death; and

(*c*) the actuarial value of any widow's pension or child's allowance payable in respect of his death,

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

(2) Where a regular fireman does not resume service in his brigade before the expiration of a month from the termination, under Article 6, of the unsecured portion of his ill-health pension, then if the aggregate of—

(*a*) the sums paid in respect of the pension; and

(*b*) the actuarial value of the secured portion of the pension (in so far as it is payable under Article 6(4)),

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

(3) For the purposes of this Article—

(*a*) where an ill-health pension is supplemented by a special pension in accordance with Article 4, any amount paid in respect of the special pension shall be treated as if it had been paid in respect of the ill-health pension;

(*b*) the actuarial value of a widow's pension, of a child's allowance or of the secured portion of an ill-health pension shall be calculated in accordance with the tables prepared from time to time by the Government Actuary;

(*c*) where a fireman's pension is reduced under Article 9 the lump sum paid to him under that Article shall be deemed to have been paid in respect of the pension; and

(*d*) where a fireman's pension is reduced under Article 24 any reference in this Article to the aggregate amount paid to him in respect of the pension shall be construed as a reference to the aggregate amount which would have been so paid had the pension not been so reduced.

(a) 1965 c. 51.

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

6.—(1) As long as a person—

(*a*) is in receipt of an ill-health pension ;

(*b*) would not, if he had continued to serve as a regular fireman instead of retiring with an ill-health pension, have become entitled to retire with an ordinary pension ; and

(*c*) if he had continued so to serve, could not have been required to retire on account of age,

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

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

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

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

(*a*) the secured portion of that pension shall not be payable in respect of any period before he attains the age of 65 years ; and

(*b*) if the ill-health pension is supplemented by a special pension in accordance with Article 4, the special pension shall be terminated.

Reassessment of fireman's special pension

7. Where a person is in receipt of a fireman's special pension, the fire authority shall, at such intervals as they think fit, consider whether the extent of his disablement has substantially altered, and if they find that it has, the pension shall be reassessed accordingly:

Provided that this Article shall cease to have effect with respect to a pension if, at any time after the expiration of 5 years from the time when the pension first became payable, the fire authority so resolve.

Reduction of award to fireman who causes or aggravates his infirmity

8. Where a regular fireman retires on account of infirmity of mind or body, and he has brought about or contributed to the infirmity by his own default or his vicious habits, the fire authority may reduce the amount of any ill-health award or special pension payable to him on his retirement by an amount not exceeding one half of that to which he would otherwise be entitled.

Commutation of pension

9.—(1) A regular fireman may in accordance with the provisions of this Article commute for a lump sum a portion of any ordinary, ill-health or short service pension to which he is or may become entitled, provided, in the case of an ordinary pension, that he retires when entitled to reckon at least 30 years' pensionable service or is required to retire on account of age.

(2) For the purpose of commuting a portion of his pension a person shall give notice in writing (in this Article called "notice of commutation") to the fire authority of his wish to commute for a lump sum such portion of his pension not exceeding a quarter thereof as (subject to the limitation contained in Article 25) he may specify.

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

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

(*a*) as from the date on which it is received by the fire authority, or

(*b*) as from the date of his retirement,

whichever is the later:

Provided that the said notice shall not become effective if—

(i) it was given more than 2 months before his retirement, or

(ii) it relates to an ill-health pension and the unsecured portion of that pension has sooner been terminated under Article 6.

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

Provided that where the notice is effective as from the time mentioned in paragraph (4)(*a*), the lump sum shall be reduced by an amount equal to the difference between the aggregate payments made in respect of the pension and the aggregate payments which would have been so made had it been reduced from the date of the retirement.

(6) For the purposes of this Article no account shall be taken of any increase under Article 52(3) or 55 in an award to a serviceman.

(7) Where a regular fireman retires on or after 26th August 1966 any notice given or other thing done before that date for the purposes of Article 9 of the Firemen's Pension Scheme 1964 shall have effect as if it had been given or done for the purposes of this Article unless he otherwise elects by notice in writing given to the fire authority before the date of his retirement; and—

(*a*) where he does not so elect and also complies with the provisions of paragraph (2)(*b*) of the said Article 9, the lump sum shall be calculated under paragraph (5) of this Article from tables prepared for the purposes of the said Article 9;

(*b*) where he does so elect, he may give a fresh notice of commutation under this Article.

PART II

AWARDS ON DEATH OF REGULAR FIREMEN

Widows

Widow's ordinary award

10.—(1) Subject as hereinafter provided, where a regular fireman entitled to reckon at least 3 years' pensionable service—

(*a*) dies while serving as such a fireman;

(*b*) dies while in receipt of a pension granted in respect of service as such a fireman; or

(*c*) retires or has retired from service as such a fireman on account of any injury and subsequently (without any intervening period of service as such) dies in consequence of that injury,

his widow shall be entitled to a widow's ordinary pension as hereinafter provided:

Provided that she shall not be so entitled by reason only of the death of her husband while in receipt of the secured portion of an ill-health pension, the unsecured portion of which was terminated in the circumstances mentioned in Article 6(2).

(2) The amount of a widow's ordinary pension under paragraph (1) shall be calculated in accordance with—

(*a*) Part I of Schedule 2, where immediately before his death or retirement her husband was paying pension contributions at a rate related to 6 per cent. of his pensionable pay;

(*b*) Part II of Schedule 2, subject however to Schedule 4, in any other case.

(3) Subject as hereinafter provided, where a regular fireman entitled to reckon less than 3 years' pensionable service dies while serving as such a fireman his widow shall be entitled to a widow's ordinary gratuity of an amount calculated in accordance with Part III of Schedule 2.

Widow's special pension

11. Where a regular fireman dies from the effects of a qualifying injury or from the effects of infirmity of mind or body occasioned by such an injury, his widow shall be entitled to a widow's special pension of an amount calculated in accordance with Part IV of Schedule 2, subject however to Schedule 4.

Widow's gratuity by way of commuted pension

12.—(1) Where a widow is entitled to a pension and the fire authority are satisfied that there are sufficient reasons for granting her a gratuity in lieu of a pension they may, subject to the provisions of Article 23, in their discretion and with her consent commute the pension for a gratuity of an amount calculated in accordance with Part V of Schedule 2.

(2) Where the fire authority are precluded by reason of the provisions of Article 23 from exercising their discretion under the preceding paragraph in the manner in which they would but for those provisions exercise it, they may, subject to those provisions, exercise that discretion in relation to part only of the pension.

Right to widow's pension dependent on date of marriage

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

Special provisions where widow was living apart from her husband

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

(*a*) he was then making regular contributions for her support or to her for the support of her child;

(*b*) he was then liable to make such contributions by virtue of an agreement or of the order or decree of a competent court; or

(*c*) the fire authority determine that, in the circumstances of the case, the award should be payable.

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

Provided that if the fire authority in the circumstances of the case so determine, the pension shall be payable for such period as they think fit, at such increased rate as they think fit not exceeding the rate at which it would be payable but for this Article.

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

Effect of remarriage

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

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

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

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

Children

Child's ordinary allowance

16.—(1) Where a regular fireman—

(*a*) dies while serving as such a fireman;

(*b*) dies while in receipt of a pension granted in respect of service as such a fireman; or

(*c*) retires or has retired from service as such a fireman on account of any injury and subsequently (without any intervening period of service as such) dies in consequence of that injury,

any child of his shall be entitled to a child's ordinary allowance for such period or periods, if any, that the mother is not in receipt of an ordinary pension payable in respect of the father's death and calculated in accordance with paragraph 1 of Part I of Schedule 2:

Provided that a child shall not be so entitled by reason only of the death of the father while in receipt of the secured portion of an ill-health pension, the unsecured portion of which was terminated in the circumstances mentioned in Article 6(2).

(2) The amount of a child's ordinary allowance shall be calculated in accordance with Part I of Schedule 3, subject however to Part III of that Schedule.

Child's special allowance

17. Where a regular fireman dies from the effects of a qualifying injury or from the effects of infirmity of mind or body occasioned by such an injury, any child of his shall be entitled to a child's special allowance of an amount calculated in accordance with Part II of Schedule 3, subject however to Part III of that Schedule and to Schedule 4.

Child's gratuity by way of commuted allowance

18.—(1) Where a child is entitled to an allowance, and the fire authority are satisfied that there are sufficient reasons for the grant of a gratuity in lieu of an allowance, they may, subject to the provisions of Article 23, in their discretion and with the consent of the child's guardian commute the allowance for a gratuity of an amount calculated in accordance with Part IV of Schedule 3.

(2) Where the fire authority are precluded by reason of the provisions of Article 23 from exercising their discretion under the preceding paragraph in the manner in which they would but for those provisions exercise it, they may, subject to those provisions, exercise that discretion in relation to part only of the allowance.

Duration of child's allowance

19. A child's allowance shall only be payable if and so long as the child has not attained the age of 16 years or if and so long as he has not attained the age of 19 years and either is receiving full-time education or is an apprentice.

Right to child's allowance dependent on date of birth and other matters

20. A child's allowance shall not be granted—

(*a*) to a child born after the date the father last ceased to serve as a regular fireman, otherwise than of a marriage which took place before that date;

(*b*) by virtue of his being a step-child, to a child whose mother married his step-father after the said date;

(*c*) by virtue only of his being an adopted child, to a child adopted after the said date; or

(*d*) by virtue of his being a step-child, adopted child or illegitimate child, to a child who was not substantially dependent on his father at the date of his father's death.

Limitation on amount of child's special allowance

21. Where a widow is entitled to a pension and her children are entitled to children's special allowances the allowances shall be reduced by such fraction, if any, as is from time to time necessary to secure that the aggregate amount of these allowances, when added to the widow's pension, does not exceed 2 thirds of the fireman's average pensionable pay.

General

Gratuities for dependants other than widows and children

22.—(1) Where a person dies while serving as a regular fireman, or dies while in receipt of a pension granted in respect of such service, the fire authority may, if they think fit, grant a gratuity to any of his relatives who were substantially dependent on him at the time of his death, and who are not entitled to any pension, gratuity or allowance under any other provision of this Scheme.

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

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

23.—(1) Where a person has died while in receipt of an ordinary, ill-health or short service pension (in this Article referred to as "the principal pension"), the fire authority shall not under Article 12 or 18 substitute for the whole or any part of a widow's pension or child's allowance payable in respect of him a gratuity the actuarial value of which, when added to that of—

(*a*) any other gratuity so substituted under Article 12 or 18, and

(*b*) any lump sum paid under Article 9 by reason that a portion of the principal pension was commuted,

exceeds a quarter of the actuarial value of the principal pension, any reduction therein under the said Article 9 being ignored.

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

(3) For the purposes of this Article no account shall be taken of an increase under Article 52(3) or 55 in an award to a serviceman.

PART III

ALLOCATION OF PENSIONS AND GENERAL PROVISIONS AFFECTING RIGHTS TO AWARDS

Allocation of pension

24.—(1) Where a regular fireman who retires and is entitled to an ordinary, ill-health or short service pension has allocated that pension, that is to say—

(*a*) has given notice in writing (hereafter in this Article called "notice of surrender") to the fire authority of his wish to surrender such portion of his pension as (subject to the limitation contained in Article 25) he may specify and, in relation to such notice, has complied with the provisions of paragraphs (3) and (4);

(*b*) has specified in the said notice the person in whose favour the surrender is to take effect (hereafter in this Article called "the beneficiary"), being his wife or such other person as the fire authority are satisfied is substantially dependent on him; and

(*c*) has provided the fire authority with such evidence of his good health as they consider satisfactory,

then, subject to paragraph (5), his pension shall be reduced accordingly as from the date of his retirement.

(2) Notwithstanding that he has previously allocated his pension, a regular fireman who is entitled to retire with an ordinary pension may, in accordance with the preceding paragraph—

(*a*) further allocate that pension in favour of the beneficiary of the previous allocation; or

(*b*) where that beneficiary has died, further allocate that pension in favour of some other beneficiary.

(3) Except in the case of a fireman entitled to retire with an ordinary pension, the notice of surrender shall be given by the fireman not earlier than 2 months before his retirement.

(4) The total portion of a fireman's pension which he may surrender in accordance with paragraph (1) shall not exceed a third thereof and, except in the case of such a further allocation as is mentioned in paragraph (2)(*a*), shall be such as will produce for the beneficiary, in accordance with the following provisions of this Article, a pension of not less than 10 shillings a week.

(5) Where the fire authority are satisfied that the fireman has complied with the provisions of paragraph (1)(*a*), (*b*) and (*c*), they shall forthwith send to the fireman a written notification that they have allowed the surrender, and the allocation shall take effect—

(*a*) in the case of a fireman who, when he gave the notice of surrender, was entitled to retire with an ordinary pension—

(i) at the time when the notification is received by him or, if sent by post, at the time when it would be delivered to him in the ordinary course of post, or

(ii) at the date of his retirement,

whichever is the earlier;

(*b*) in any other case, at the date of retirement;

and in a case to which sub-paragraph (*a*)(i) applies, the pension shall be reduced notwithstanding the death of the beneficiary specified in the notice of surrender before the date of retirement.

(6) Where a fireman retires having allocated his pension and the allocation has taken effect, the fire authority shall as from his death pay to the beneficiary specified in the notice of surrender, if that person survives the fireman, a pension of such amount as is the actuarial equivalent of the surrendered portion of the fireman's pension so specified.

The said actuarial equivalent shall be calculated from tables prepared by the Government Actuary at the time the allocation took effect, by reference to the ages of the fireman and the beneficiary at that time, and separate calculations shall be made in respect of separate allocations.

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

(*a*) if he dies before retiring, the fire authority shall pay to the beneficiary specified in the notice of surrender the like pension as they would have paid by virtue of that allocation if the fireman had retired immediately before he died;

(*b*) if he retires with an ill-health pension, the foregoing provisions of this Article shall apply as if the allocation related to such pension.

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

(*a*) whether he is entitled to retire with an ordinary pension ; or

(*b*) where he dies before retiring, the pension which would have been paid if he had retired immediately before he died,

no account shall be taken of the restriction on entitlement to an ordinary pension contained in Article 1(2).

(9) For the purposes of this Article no account shall be taken of an increase under Article 52(3) or 55 in an award to a serviceman.

(10) Where a regular fireman retires on or after 26th August 1966 any notice given or other thing done before that date for the purposes of Article 13 of the Firemen's Pension Scheme 1952(**a**), as set out in Article 1 of the Firemen's Pension Scheme Order 1954(**b**), of Article 23 of the Firemen's Pension Scheme 1956 or of Article 24 of the Firemen's Pension Scheme 1964 shall have effect as if it had been given or done for the purposes of this Article.

Limitation on right to commute or allocate part of a pension

25.—(1) A regular fireman shall not under Article 9 commute for a lump sum nor under Article 24 allocate in favour of his wife or other dependant such a portion of his pension that that pension becomes payable at a rate less than 2 thirds of the rate at which it would have been payable but for the provisions of the said Articles and of Part IV of Schedule 1.

(2) For the purposes of this Article no account shall be taken of an increase under Article 52(3) or 55 in an award to a serviceman.

Prevention of duplication

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

Provided that, for the purposes of this Article, where an ill-health pension is supplemented by a special pension in accordance with Article 4 those pensions shall be treated as one, and there shall be disregarded—

(*a*) a pension payable under Article 24(6) or (7) ;

(*b*) a pension payable under Part IX of this Scheme ;

(*c*) the secured portion of an ill-health pension the unsecured portion of which was terminated in the circumstances mentioned in Article 6(2), in so far as it is payable under Article 6(4).

Award not payable in case of transfer

27.—(1) Where a regular fireman retires or has retired from a brigade and after again becoming such a fireman in that or another brigade becomes entitled under Article 31(1) or (4) to reckon as pensionable service the period of pensionable service he was entitled to reckon on retiring, then, subject to paragraph (4), any award to which he has become entitled on the occasion of that retirement shall cease to be payable.

(2) Where a regular fireman retires or has retired from a brigade and enters other pensionable employment in such circumstances that a transfer value becomes payable by the fire authority in respect of him under rules made by virtue of section 9 of the Fire Services Act 1959, then, subject to paragraph (4), any award to which he has become entitled on the occasion of that retirement shall cease to be payable.

(**a**) *See* S.I. 1952/944 (1952 I, p. 1003). (**b**) S.I. 1954/1365 (1954 I, p. 906).

(3) Where a regular fireman retires from a brigade in pursuance of a written notice to the fire authority of his intention to retire for the purpose of joining another brigade, then notwithstanding anything in Article 1(1) he shall not, on the occasion of that retirement, be entitled to a pension under that Article.

(4) Where an award under Article 43 by way of repayment of aggregate contributions ceases to be payable under paragraph (1) or (2), so much of the award, if any, as is unpaid and represents a return of additional contributions paid under Article 40 shall continue to be payable.

Withdrawal of pension or allowance for misconduct

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

(*a*) is sentenced for any offence to preventive detention or corrective training or to imprisonment for a term exceeding 12 months ; or

(*b*) becomes or continues to be engaged in any business, occupation or employment which is illegal,

the fire authority may, in relation to that pension or allowance, exercise the powers conferred by this Article.

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

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

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

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

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

(*a*) be applied by that authority for the benefit of any dependant of the person to whom but for its withdrawal it would be payable ;

(*b*) be restored to that person.

Withdrawal of pension during employment as a regular fireman

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

PART IV

PENSIONABLE SERVICE OF REGULAR FIREMEN

Current service in the brigade

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

(*a*) any period of service as such, in the brigade in which he is serving, on or after 26th August 1966 ; and

(*b*) where he was serving in that brigade both on and immediately before 26th August 1966, any period of pensionable service which he was entitled to reckon immediately before that date:

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

(i) where he has left and rejoined the brigade on or after 26th August 1966, any period of service before he last rejoined the brigade ;

(ii) any period of absence from duty as a fireman as a result of sickness or injury which is certified by a duly qualified medical practitioner to be due to his own misconduct or vicious habits ; or

(iii) any period of absence from duty as a fireman without pay, including any period of suspension from duty terminating with the fireman having been found guilty of an offence against discipline or a criminal offence.

Previous service in a brigade

31.—(1) Subject to paragraph (2), where a regular fireman—

(*a*) retires or has retired from a brigade without a pension and without a transfer value becoming payable under rules made by virtue of section 9 of the Fire Services Act 1959 ; and

(*b*) within twelve months of so retiring and without any intervening service as a regular fireman rejoins or has rejoined that brigade or joins or has joined another brigade,

he shall be entitled to reckon as pensionable service the period of pensionable service he was entitled to reckon on so retiring, but subject to his undertaking, within 6 months of rejoining or, as the case may be, joining the brigade or within such longer period as the fire authority may in his case allow, to pay in accordance with Schedule 5 a sum equal to the aggregate of—

(i) any sum paid to him by way of gratuity or return of aggregate contributions on retirement less so much of such sum, if any, as represents a return of additional contributions paid under Article 40 ; and

(ii) the balance of any sum he had undertaken to pay in accordance with Schedule 5 to this Scheme, Schedule 5 to the Firemen's Pension Scheme 1964 or Schedule 5 to the Firemen's Pension Scheme 1956 which was outstanding immediately before his retirement.

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

(3) Where a regular fireman—

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

(*b*) resumes service in the brigade in the circumstances and within the period mentioned in Article 6(3),

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

(4) Where a regular fireman—

(*a*) retires or has retired from a brigade without a pension, other than an ill-health pension the unsecured portion of which has been terminated in the circumstances mentioned in Article 6(2) ;

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

(*c*) cannot under paragraph (1) or (3) reckon as pensionable service the period of pensionable service he was entitled to reckon on so retiring,

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

Period during which a special pension was payable

32.—(1) Where a regular fireman—

(*a*) retires or has retired from a brigade with a special pension ; and

(*b*) resumes or has resumed service in the brigade in the circumstances and within the period mentioned in Article 6(3),

he shall be entitled to reckon as pensionable service the period for which that pension was payable, but subject to his undertaking, within 6 months of resuming service in the brigade or within such longer period as the fire authority may in

his case allow, to pay in accordance with Schedule 5 a sum equal to the aggregate of the pension contributions (other than additional contributions under Article 40) which would have been payable by him for that period had he continued to serve as a regular fireman in the brigade in the rank he held immediately before his retirement.

(2) In the case of a regular fireman who would have been entitled to a special pension but for the amount of additional benefit, within the meaning of Article 4(2), payable to him, paragraph (1) shall have effect as if he had been entitled to a special pension.

Absence from duty in the brigade without pay

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

(2) Where by virtue of any such resolution as aforesaid any period is reckoned as pensionable service, the fireman shall become liable to pay to the fire authority the contributions (including additional contributions under Article 40) which would have been payable by him for that period if he had been paid at the rate applicable to his case.

Previous local government service

34.—(1) This Article shall apply in the case of a person—

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

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

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

(*a*) 3 quarters of the period of contributing service ; and

(*b*) 3 eighths of the period of non-contributing service,

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

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

(*a*) additional contributory payments in discharge of a fixed sum ; or

(*b*) additional contributions for added years,

whether on giving notice in that behalf or otherwise, then he shall and shall only be entitled to reckon 3 quarters of that period as pensionable service if within 3 months of his becoming a regular fireman or within such longer period as the fire authority may in his case allow, he undertakes to pay in accordance with Schedule 5 a sum equal to the capital value of those additional payments or contributions as the case may be, as determined by the fire authority.

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

(**a**) 1937 c. 68. (**b**) 1948 c. 33.

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

Previous service other than fire or local government service

35.—(1) This Article shall apply in the case of a person, other than a person to whom Article 34 applies—

(*a*) who before becoming a regular fireman was in service or employment otherwise than as a fireman by virtue of which he was subject to superannuation arrangements (hereafter in this Article referred to as " former service ");

(*b*) in respect of whom a transfer value relating to his former service is paid to the fire authority under rules made under sections 2 and 15 of the Superannuation (Miscellaneous Provisions) Act 1948, under regulations made under section 67 of the National Health Service Act 1946(b), or section 66 of the National Health Service (Scotland) Act 1947(c), or under any such other provisions as may be approved for the purposes of this Article by the Secretary of State ; and

(*c*) who within 3 months of his becoming a regular fireman, or within such longer period as the fire authority may in his case allow, undertakes to pay in accordance with Schedule 5 a sum equal to the balance of any liability outstanding immediately before he ceased to be engaged in his former service in respect of payments or contributions he was then making as a condition of reckoning past service as contributing service or otherwise for the purposes of the said superannuation arrangements.

(2) Where under the superannuation arrangements mentioned in paragraph (1)—

(*a*) a maximum pension is provided for a person entitled to reckon 30 years' service for the purposes thereof, or

(*b*) after 20 years' service each year of service is reckonable as 2 years' service for the purposes thereof,

then such a person as is mentioned in paragraph (1) who was subject to those arrangements shall be entitled to reckon as pensionable service the whole of the period specified in paragraph (4).

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

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

(*a*) the period of service which is or was reckonable for the purpose of calculating the transfer value ; or

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

Certificates of pensionable service

36.—(1) Where a regular fireman becomes entitled to reckon a period of service as pensionable service for the purposes of this Scheme by virtue of Article 31, 32, 34, 35 or 57, then the fire authority shall, within a period of 6 months, supply him with a certificate showing the pensionable service he was entitled to reckon on the date on which he became entitled to reckon the said period of service.

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

(a) 1937 c. 69. (b) 1946 c. 81. (c) 1947 c. 27.

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

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

(*a*) before the certificate has been supplied, then the obligation to supply a certificate shall cease;

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

(5) For the purposes of this Article a fireman shall be treated as only becoming entitled to reckon service under Article 57 if and when he resumes service in his former brigade.

Prevention of double reckoning

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

PART V

PENSIONABLE PAY AND CONTRIBUTIONS OF REGULAR FIREMEN

Pensionable pay and average pensionable pay

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

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

(*a*) the expression "average annual pensionable pay" means the aggregate of the pensionable pay of the fireman, ignoring any reduction of pay during sick leave and any stoppage of pay by way of punishment, during the 3 years immediately preceding his death or retirement or, in a case where he was not serving as a regular fireman when he died, the date on which he last ceased to serve as such, divided by 3:

Provided that where he was in receipt of pensionable pay for only part of the said period, the said aggregate shall be divided by the number of years and that fraction of a year for which he was in receipt of pensionable pay during the said period; and

(*b*) the expression "average pensionable pay" means the average annual pensionable pay of the fireman divided by 52$\frac{1}{6}$.

(3) Notwithstanding anything in the preceding paragraph, for the purpose of determining the benefits payable under this Scheme in respect of a person who last ceased to serve as a regular fireman before 10th July 1956, the expressions "average annual pensionable pay" and "average pensionable pay" shall have the meanings assigned to "annual pensionable pay" and "pensionable pay" respectively by Article 46 of the Firemen's Pension Scheme 1952 for the purpose of determining the benefits payable under that Scheme.

Rate of payment of pension contributions

39.—(1) Subject to the provisions of this Scheme, a regular fireman shall pay pension contributions to the fire authority at the rate of 1s. 2d. a week less than 6 per cent. of his pensionable pay.

(2) Where a man is on 26th August 1966—

(*a*) a regular fireman ;

(*b*) a serviceman whose period of relevant service in the armed forces includes that date ; or

(*c*) in receipt of an ill-health pension,

then unless before the date appropriate to his case specified in paragraph (3) he elects to pay pension contributions at the rate specified in the preceding paragraph, he shall in respect of any period beginning on or after the appropriate date during which he is a regular fireman pay such contributions at the rate of 1s. 2d. a week less than 5 per cent. of his pensionable pay and there shall be refunded to him by the fire authority to whom he has paid pension contributions under this Article or Article 57 the difference between 5 per cent. and 6 per cent. of his pensionable pay in respect of the period beginning on 26th August 1966 and ending immediately before the date appropriate to his case:

Provided that in the case of a person who gives notice that he does not intend to exercise his right of election under this paragraph, this paragraph shall apply as if for any reference to the appropriate date there were substituted a reference to the date on which he gives such notice.

(3) For the purposes of paragraph (2) the appropriate date means—

(*a*) in the case of such a person as is mentioned in paragraph (2)(*a*)—

(i) the 26th November 1966, or

(ii) where he retires before that date, the date immediately preceding that of his retirement ;

(*b*) in the case of such a person as is mentioned in paragraph (2)(*b*)—

(i) the date following the expiration of 3 months from the end of his period of relevant service in the armed forces, or

(ii) where he retires from service as a regular fireman within that period of 3 months, the date immediately preceding that of his retirement, or

(iii) where he is granted a pension under Article 52, the date immediately preceding that of the end of his period of relevant service in the armed forces;

(*c*) in the case of such a person as is mentioned in paragraph (2)(*c*)—

(i) the date following the expiration of 3 months from his first resuming service as a regular fireman, or

(ii) where he retires within that period of 3 months, the date immediately preceding that retirement.

(4) In the case of a person who—

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

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

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

this Article shall, subject to the proviso to paragraph (6), apply subject to the provisions of that paragraph.

(5) In the case of a person who—

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

(*b*) has been excepted from the operation of any regulations made under section 69(4) of the National Insurance Act 1946(a) or section 110(1) of the National Insurance Act 1965 or of any other provisions modifying the said arrangements in connection with the passing of the said Act of 1946,

this Article shall, subject to the proviso to paragraph (6), apply subject to the provisions of that paragraph.

(6) In the case of a person such as is mentioned in paragraph (4) or (5), this Article shall apply as if for any reference to a rate of 1s. 2d. a week less than a percentage of his pensionable pay there were substituted a reference to the rate of 2d. a week less than that percentage of his pensionable pay:

Provided that in the case of a person who has previously retired from service as a regular fireman, otherwise than with an ill-health pension, and resumed service as such later than a year after that retirement this paragraph shall have effect only if he is such a person as is mentioned in paragraph (5) by reason of his being entitled to reckon pensionable service by virtue of such service or employment as is there mentioned which he entered after his previous retirement.

Rate of payment of additional contributions in certain cases

40. Where a person—

(*a*) is on 26th August 1966 a regular fireman or a serviceman whose period of relevant service in the armed forces includes that date;

(*b*) is entitled at that date to reckon not more than 20 years' pensionable service;

(*c*) will be entitled to reckon at least 25 years' pensionable service before he can be required to retire under Article 73, and

(*d*) has elected in accordance with Article 39(2) to pay pension contributions at a rate related to 6 per cent. of his pensionable pay,

then, for the purpose of avoiding a reduction in pension under Part IV of Schedule 1, he may elect, before the date appropriate to his case specified in Article 39(3), to pay additional pension contributions, and where he has so elected he shall pay such contributions as from the appropriate date at a rate calculated in accordance with Schedule 7 until such time as he becomes entitled to reckon 25 years' pensionable service or retires, whichever is the earlier.

Method of payment of pension contributions

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

Form of election or notice

42. Any election made or notice given by a person under this Part of this Scheme shall be in the form of a written notice to the fire authority maintaining the brigade in which he is serving or, where he is a serviceman performing relevant service in the armed forces, to the fire authority maintaining his former brigade.

Repayment of contributions on retirement or death

43.—(1) Where a regular fireman retires without a pension or gratuity he shall be entitled to an award by way of repayment of his aggregate contributions.

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

(*a*) any gratuity so payable; and

(a) 1946 c. 67.

(*b*) the actuarial value of any widow's pension or child's allowance so payable (calculated in accordance with the tables prepared from time to time by the Government Actuary),

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

Repayment of contributions on dismissal

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

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

(*a*) repay to him his aggregate contributions wholly or in part;

(*b*) apply his aggregate contributions wholly or in part for the benefit of his dependants;

(*c*) retain his aggregate contributions wholly or in part.

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

(*a*) by carelessness or neglect suffering any loss, damage or injury to occur to any person or property (which offence is specified in paragraph (4)(*b*) of the code of disciplinary offences set out in the Schedule to the Fire Services (Discipline) Regulations 1948(**a**) and in the Schedule to the Fire Services (Discipline) (Scotland) Regulations 1953(**b**));

(*b*) failing to account for, or to make a true return of, any money or property which comes into the fireman's possession in the course of his duties (which offence is specified in paragraph (7)(*b*) of the said code), and

(*c*) wilfully or negligently damaging any article of clothing or personal equipment with which the fireman has been provided or entrusted or failing to take proper care thereof (which offence is specified in paragraph (9)(*a*) of the said code).

PART VI

DETERMINATION OF QUESTIONS AND APPEALS

General functions of fire authority

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

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

(*a*) whether a person has been incapacitated for the performance of his duty as a fireman by infirmity of mind or body;

(*b*) whether any such incapacity is likely to be permanent;

(*c*) whether a person's incapacity has been occasioned by a qualifying injury;

(*d*) whether a person has become capable of performing the duties of a fireman;

(*e*) the extent to which a person has been disabled;

(*f*) any other question which ought to be determined in whole or in part on medical grounds:

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

(**a**) S.I. 1948/545 (Rev. VII, p. 757: 1948 I, p. 1059).
(**b**) S.I. 1953/1086 (1953 I, p. 766).

Appeal against opinion of fire authority's medical practitioner

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

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

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

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

Appeal against decision of fire authority

47.—(1) Where any person claims that he is entitled to an award or to any payment on account of an award and the fire authority do not admit the claim at all, or do not admit the claim to the full extent thereof, the person aggrieved may apply to the fire authority for reconsideration of the case, and, if aggrieved by the decision on such reconsideration, may appeal to the next practicable court of quarter sessions for any county or borough which constitutes, or is wholly or partly included in, the area of the fire authority.

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

(3) Nothing in this Article shall authorise a court of quarter sessions—

(*a*) to make an order or declaration controlling or restricting the exercise of any discretion which by this Scheme is vested in a fire authority ;

(*b*) to reopen any decision on a medical question which has been given on an appeal under Article 46 ; or

(*c*) to question any certificate of pensionable service which is deemed to be conclusive by Article 36 of this Scheme, by Article 36 of the Firemen's Pension Scheme 1964, by Article 34 of the Firemen's Pension Scheme 1956(**a**) or by Article 19D of the Firemen's Pension Scheme 1952(**b**), as set out in Article 3 of the Firemen's Pension Scheme Order 1953(**c**).

(4) Subject to and in accordance with rules of court, an appeal on a point of law from a decision of a court of quarter sessions under this Article shall lie to the High Court.

(5) In the application of this Article to Scotland, for any reference to a court of quarter sessions there shall be substituted a reference to the sheriff having jurisdiction in the place where the person concerned last served as a regular fireman, and for any reference to the High Court there shall be substituted a reference to the Court of Session.

PART VII

PAYMENT OF AWARDS AND FINANCIAL PROVISIONS

Payment of awards generally

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

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

(**a**) *See* S.I. 1956/1022 (1956 I, p. 953). (**b**) *See* S.I. 1952/944 (1952 I, p. 1003).
(**c**) S.I. 1953/1385 (1953 I, p. 778).

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

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

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

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

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

(*b*) where the fireman received an ill-health gratuity, in which case the pension or allowance shall be payable as from the first anniversary of his death or such earlier date as the fire authority, in the circumstances of the case, think fit.

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

Provided that where a fire authority are satisfied that it would be to the advantage of the beneficiary to pay a gratuity in instalments, they may pay it in instalments of such reasonable amounts and over such reasonable period as they think fit.

(8) Without prejudice to the provisions of any such regulations as are mentioned in section 60(5) of the National Insurance Act 1965 and for the time being in force, where a regular fireman is entitled under Article 43 to an award by way of repayment of his aggregate contributions the fire authority shall be under no obligation to make payment until the expiration of a year from the date of his retirement or until he requests payment, whichever first occurs.

Payment of awards in special cases

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

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

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

(3) On the death of a person to whom or to whose estate a sum not exceeding £500 is due on account of a pension, the fire authority may, without probate, confirmation or any other formality or proof of title, pay the said sum to the persons appearing to the authority to be beneficially entitled to the personal

estate of the deceased, or, as the authority think fit, pay the said sum to one or more of those persons or distribute it among all or any of those persons in such proportions as the authority may determine.

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

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

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

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

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

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

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

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

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

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

Payment of transfer values

50. Where a regular fireman retires or has retired from a brigade and after again becoming such a fireman in another brigade becomes entitled under Article 31(1) to reckon as pensionable service the period of pensionable service he was entitled to reckon on retiring, the fire authority maintaining the first-mentioned brigade shall pay to the fire authority maintaining the other brigade a sum by way of transfer value calculated in accordance with Schedule 9.

Expenses and receipts of fire authorities

51.—(1) Every fire authority shall maintain an account showing all sums received or paid by the authority under, or for the purposes of, this Scheme, the Firemen's Pension Scheme 1964(a), the Firemen's Pension Scheme 1956, the Firemen's Pension Scheme 1952 or the Firemen's Pension Scheme 1948.

(2) The account mentioned in paragraph (1) shall be separate from any account maintained by the fire authority which shows sums received or paid by the authority (not being such sums as are there mentioned) other than sums received or paid under rules made by virtue of section 9 of the Fire Services Act 1959(b), or payments in lieu of contributions made in respect of regular firemen.

(3) Where in any year the receipts credited to the account mentioned in paragraph (1) exceed the payments debited thereto, the balance may be transferred to a pension reserve account.

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

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

(a) See S.I. 1964/1148 (1964 II, p. 2574). (b) 1959 c. 44.

PART VIII
SERVICEMEN

Awards to servicemen

52.—(1) This Article shall apply in the case of a serviceman who at the end of his period of relevant service in the armed forces is incapacitated by infirmity of mind or body for the performance of duty as a regular fireman if it appears that the incapacity is likely to be permanent.

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

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

(*a*) pay him, in lieu of a gratuity, a pension at the rate of a twelfth of his average pensionable pay; and

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

Awards on death of servicemen

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

(*a*) dies during his period of relevant service in the armed forces; or

(*b*) having been incapacitated for duty as a regular fireman at the end of the said period and the incapacity having appeared likely to be permanent (without any intervening period of service as such a fireman) dies from the effects of the injury that resulted in his incapacity or while in receipt of a pension.

(2) Such a person's widow shall—

(*a*) if he was entitled to reckon 3 years' pensionable service, be entitled to a pension as though he were a person mentioned in Article 10(1); or

(*b*) if she is not so entitled to a pension and if her husband died during his period of relevant service in the armed forces, be entitled to a gratuity under Article 10(3) as though he died while serving as a regular fireman.

(3) Any child of such a person shall be entitled to an allowance as though he were mentioned in Article 16.

(4) Subject to paragraphs (5) and (6), where such a person dies from the effects of an injury received during his period of relevant service in the armed forces or of a qualifying injury, the fire authority may, in their discretion—

(*a*) pay to the widow, in lieu of a gratuity, a pension at the rate of £81 a year; and

(*b*) increase any pension or allowance payable under this Article, so however that the increased award, when aggregated with any service pension payable to or for the widow or child, as the case may be, in respect of the serviceman, shall not be payable at a rate exceeding that of the award to which the widow or child, as the case may be, would have been entitled had the serviceman died from the effects of a qualifying injury, ignoring any increase in accordance with the provisions of Schedule 4.

(5) In any case in which the rate of payment specified in paragraph (4)(*a*) falls to be increased under any of the relevant Pensions (Increase) Acts, otherwise than under section 2 of the Pensions (Increase) Act 1962(a), paragraph (4)(*a*) shall have effect as if for the rate of £81 a year there were substituted such lower rate as, together with the increase, yields a pension at the rate of £81 a year.

(6) Where an award is increased under paragraph (4)(*b*) the amount thereof shall be further increased in accordance with Schedule 4.

(a) 1962 c. 2.

Gratuities for dependants other than widows and children

54. In relation to a serviceman who dies during his relevant service in the armed forces, Article 22 shall apply as though he died while serving as a regular fireman.

Servicemen who resume service as regular firemen

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

(*a*) is incapacitated for the performance of his duties as such and the incapacity appears likely to be permanent; or

(*b*) dies (whether while serving as such a fireman or otherwise),

as a result of an injury received during his period of relevant service in the armed forces, the fire authority may, in relation to any award payable to or in respect of him, exercise the like discretions as are conferred on them by Article 52 or by Article 53.

Servicemen who do not resume service in their former brigade

56. If a serviceman within one month of the end of his period of relevant service in the armed forces does not resume service in his former brigade, he shall be treated for the purposes of Articles 13, 20, 27, 31, 38, 43 and 68 as having left his former brigade at the end of that period:

Provided that he may apply to the fire authority for the consent mentioned in Article 31(2) at any time within a month of the end of the said period.

Pensionable service, contributions and pay

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

(2) A serviceman shall pay pension contributions (including additional contributions under Article 40) to the fire authority of his former brigade in respect of his period of relevant service in the armed forces as though he had remained a regular fireman in that brigade:

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

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

Servicemen deemed not to have retired

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

Application to regular firemen with war service

59.—(1) Articles 53 and 55 shall apply in the case of a regular fireman who received any injury during a period of war service at a time when section 1 of the Police and Firemen (War Service) Act 1939(b) applied to him as they apply in the case of a serviceman and as if any reference therein to a period of relevant service in the armed forces were a reference to a period of war service.

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

(a) 1951 c. 65. (b) 1939 c. 103.

PART IX

MEMBERS OF BRIGADES WHO ARE NOT REGULAR FIREMEN

Awards to and in respect of whole-time firemen

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

(2) If he retires in consequence of the injury, the fire authority may grant him such pension as they think fit, so however that the said pension, when aggregated with any additional benefit which may be payable to him, shall not exceed the minimum injury award which would have been appropriate in his case had he been a regular fireman of the rank of fireman and retired on account of a qualifying injury during his first year of service.

(3) If he dies from the effects of the injury, either before or after retiring from the brigade, the fire authority may grant his widow or child such pension or allowance, as the case may be, as they think fit, so however that the said pension or allowance, when aggregated with any additional benefit which may be payable to the recipient, shall not exceed the pension or allowance which would have been payable had he been a regular fireman of the rank of fireman who died or retired during his first year of service and died from the effects of a qualifying injury, any increase in accordance with Schedule 4 being ignored.

(4) The amount of a pension or allowance granted under the last foregoing paragraph shall be increased in accordance with Schedule 4.

(5) In this Article the expression "additional benefit" means any periodical payments of whatever nature which are made by the fire authority, otherwise than under this Article, by any other local authority or by a Minister of the Crown otherwise than by way of an increase in a disablement pension payable under section 15 of the National Insurance (Industrial Injuries) Act 1965(**a**) where constant attendance is needed, so however that in paragraph (3) the said expression does not include any benefit payable under that Act or the National Insurance Act 1965(**b**).

(6) Article 4(3) (which relates to disablement gratuities under the National Insurance (Industrial Injuries) Act 1965) shall apply for the purposes of this Article as it applies for the purposes of Article 4.

(7) This Article shall have effect in the case of a woman member of a brigade subject to Article 65(1).

Payment of contributions by retained firemen

61.—(1) Every part-time member of a brigade, being a retained fireman, shall pay an annual contribution to the fire authority which shall fall due at the same time as his annual retaining fee and may, without prejudice to any other method of payment, be discharged by way of a deduction made by the authority from the said fee.

(2) The annual contribution to be paid under paragraph (1) shall be—

(*a*) 16s. in the case of a man holding the rank of fireman ;

(*b*) 19s. in the case of a man holding the rank of leading fireman ;

(*c*) £1 1s. in the case of a man holding the rank of sub-officer ;

(*d*) £1 5s. in the case of a man holding the rank of station officer ;

(*e*) £1 8s. in the case of a man holding any higher rank ;

(*f*) 4s in the case of a woman.

(3) In this Article any reference to a man's rank is a reference to his rank at the time the annual contribution falls due.

(**a**) 1965 c. 52. (**b**) 1965 c. 51.

Part-time firemen: injury award

62.—(1) Where a part-time member of a brigade is incapacitated for the performance of his duty as such a member by infirmity of mind or body occasioned by an injury received without his own default in the execution of his duties as such a member and it appears that the incapacity is likely to be permanent, he shall on retiring on that account be entitled to an injury award as hereinafter provided.

(2) The award under paragraph (1) shall consist of an ill-health pension and a special pension which shall be payable at the like rates and be subject to the like conditions as they would have been if the part-time member concerned had been such a regular fireman as is mentioned in Article 65(2) and had retired on account of a qualifying injury; and, accordingly, Articles 3, 4, 6, 7, 8 and 75 shall have effect subject to any necessary modifications.

Widow of part-time fireman: injury pension

63.—(1) Where a part-time member of a brigade dies from the effects of an injury received without his own default in the execution of his duties as such a member or from the effects of infirmity of mind or body occasioned by such an injury, his widow shall be entitled to a widow's injury pension as hereinafter provided.

(2) Where the part-time member last ceased to serve as such on or after 1st August 1964, the injury pension under paragraph (1) shall be a widow's special pension payable at the like rate and subject to the like conditions as it would have been had he been such a regular fireman as is mentioned in Article 65(2) and died from the effects of a qualifying injury; and, accordingly, Articles 11, 12, 13, 14 and 15 shall have effect subject to any necessary modifications.

(3) Where the part-time member last ceased to serve as such before 1st August 1964, the injury pension under paragraph (1) shall, subject to Article 65(3), be payable—

(*a*) for such period as she is under the age of 40 years, at the rate of 26s. 4d. a week;

(*b*) for such period as she is of the age of 40 years or over but under the age of 50 years, at the rate of 39s. 5d. a week;

(*c*) for such period as she is of the age of 50 years or over or has a child in receipt of an injury allowance under Article 64, at the rate of 52s. 6d. a week;

and in relation to the pension Articles 12, 13, 14 and 15 shall have effect subject to any necessary modifications:

Provided that the said pension shall not exceed that which would have been payable had it fallen to be calculated in accordance with paragraph (2).

Child of part-time fireman: injury allowance

64.—(1) Where a part-time member of a brigade dies as mentioned in Article 63(1), any child of his shall be entitled to, or, in the case of a woman member, any child of hers may be granted, a child's injury allowance as hereinafter provided.

(2) Where the part-time member last ceased to serve as such on or after 1st August 1964, the injury allowance under paragraph (1) shall be a child's special allowance payable, subject to paragraph (4), at the like rate and subject to the like conditions as it would have been had he been such a regular fireman as is mentioned in Article 65(2) and died from the effects of a qualifying injury; and accordingly Articles 17, 18, 19, 20 and 21 shall have effect subject to any necessary modifications.

(3) Where the part-time member last ceased to serve as such before 1st August 1964, the injury allowance under paragraph (1) shall, subject to Article 65(3), be payable—

(*a*) where the member is a man, at the rate of 14s. 0d a week;

(*b*) where the member is a woman, at such rate as the fire authority from time to time think fit, not exceeding 10s. 6d. a week if and so long as the child's father is living and not exceeding 14s. 0d. a week if the child has no parent living;

and in relation to the allowance Articles 18, 19 and 20 shall have effect subject to the necessary modifications:

Provided that the said allowance shall not exceed that which would have been payable had it fallen to be calculated in accordance with paragraph (2).

(4) This Article shall have effect in the case of a woman member of a brigade subject to Article 65(1) and in such case an allowance which falls to be calculated in accordance with paragraph (2) shall be payable at such rate as the fire authority from time to time think fit, not exceeding the rate at which it would have been payable but for this paragraph.

Auxiliary provisions

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

(*a*) as if for any reference in Article 60(2) or (3) to the rank of fireman there were substituted a reference to the rank of firewoman;

(*b*) as if for any reference in Article 60(3) or 64(1) to a child there were substituted a reference to a child of the member substantially dependent upon her at the time of her death;

(*c*) as if in Article 20—

(i) for any reference to the father or step-father there were substituted a reference to the mother or step-mother as the case may be;

(ii) for the reference to the mother there were substituted a reference to the father.

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

(*a*) held the same rank as the part-time member in fact held and had the same service in that rank,

(*b*) was entitled to reckon as pensionable service a period equal to the part-time member's service as such, and

(*c*) paid pension contributions at the rate of 1s. 2d. a week less than 5 per cent. of his pensionable pay.

(3) In any case in which the rate of widow's injury pension or child's injury allowance specified in Article 63(3) or, as the case may be, Article 64(3) falls to be increased under any of the relevant Pensions (Increase) Acts, otherwise than under section 2 of the Pensions (Increase) Act 1962, the provision in question shall have effect as if for the rate specified there were substituted such lower rate as, together with the increase, yields a pension at the specified rate.

(4) The provisions of Article 28 and of Parts VI, VII and XII of this Scheme (in so far as they are applicable) shall apply to a member of a fire brigade who is not a regular fireman and to a pension or allowance granted to or in respect of him, but, save as provided in this Part of this Scheme, the provisions of this Scheme shall not apply to such a member or to such a pension or allowance.

PART X

PERSONS WHO ARE NOT MEMBERS OF BRIGADES

Temporary employment in connection with the provision of fire services

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

(*a*) employment as an instructor at the central training institution or any training centre maintained by the Secretary of State;

(*b*) employment as an inspector, assistant inspector or other officer appointed under section 24 of the principal Act;

(*c*) employment entered upon in pursuance of arrangements made by the Secretary of State in connection with the training in fire-fighting of members of the armed forces of the Crown; or

(*d*) employment entered upon in pursuance of arrangements made by the Secretary of State in connection with the training and organisation of fire-fighting forces in such an overseas territory as is mentioned in paragraph (3).

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

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

(*b*) his pay and rank were the same as they would have been had he not ceased to perform duties as such a fireman or, where section 10 of the Fire Services Act 1959 applies in his case, the same as his pay and rank as a member of a fire brigade;

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

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

(*e*) the reference to a court of quarter sessions in Article 47(1) were a reference to the court of quarter sessions for any county or borough which constitutes or is wholly or partly included in the area of the fire authority by whom he was employed immediately before entering the relevant employment;

(*f*) the reference to the sheriff in Article 47(5) were a reference to the sheriff having jurisdiction in the place where he served as a fireman immediately before entering the relevant employment; and

(*g*) Articles 51, 73 and 74 were omitted.

(3) The overseas territory referred to in paragraph (1)(*d*) is any territory or country outside the United Kingdom, being a colony, protectorate or protected state within the meaning of the British Nationality Act 1948(a), or a country mentioned in section 1(3) of that Act, or, where appropriate, the territory or country wherein such a territory or country was incorporated after the inception of the employment.

Permanent employment as an instructor

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

(2) In the case of such a person as is mentioned in paragraph (1), the employment therein mentioned (hereafter in this paragraph referred to as "the relevant employment") shall be treated for the purposes of this Scheme as employment

(a) 1948 c. 56.

as a member of a brigade and this Scheme shall apply in relation to that employment as if—

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

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

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

(*d*) the reference to a court of quarter sessions in Article 47(1) were a reference to the court of quarter sessions for any county or borough in which the central training institution or, as the case may be, training centre, is situate;

(*e*) the reference to the sheriff in Article 47(5) were a reference to the sheriff having jurisdiction in the place where the central training institution is situate; and

(*f*) Articles 51, 73 and 74 were omitted.

PART XI

PERSONS WHO WERE SERVING ON 10TH JULY 1956

Modification of Scheme

68.—(1) Subject to paragraphs (3) and (4) this Article shall apply in the case of a person who—

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

(*b*) was, on 10th July 1956, in receipt of an ill-health pension and subsequently, but before 1st August 1964, resumed service in his brigade in the circumstances and within the period mentioned in Article 6(3),

not being a person who exercised his right of election under Article 60 of the Firemen's Pension Scheme 1956 or to whom that Article or Article 66 of the Firemen's Pension Scheme 1964 ceased to apply.

(2) In the case of a person to whom this Article applies this Scheme shall have effect subject to the modifications set out in Schedule 10.

(3) Where a person to whom this Article applies has ceased to serve as a regular fireman in any particular brigade, this Article shall not apply to him in relation to any subsequent period during which he serves as a regular fireman in the same or another brigade, beginning on or after 1st August 1964, unless in the circumstances mentioned in Article 31(1) or (3), he becomes or has become entitled to reckon as pensionable service the period so reckonable on his ceasing to serve.

(4) Where a regular fireman to whom this Article applies elects in accordance with Article 39(2) to pay pension contributions at a rate related to 6 per cent. of his pensionable pay, this Article shall not apply to him in relation to any period during which he serves as a regular fireman on or after the date appropriate to his case specified in Article 39(3).

PART XII

MISCELLANEOUS PROVISIONS AND INTERPRETATION

Auxiliary firemen not subject to Scheme

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

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

Exclusive application of Scheme in relation to regular firemen

70. Subject to the provisions of section 27 of the principal Act, the provisions of this Scheme and, in so far as they continue to have effect, of the Firemen's

Pension Scheme 1964, the Firemen's Pension Scheme 1956, the Firemen's Pension Scheme 1952 and the Firemen's Pension Scheme 1948 shall have effect in relation to regular firemen, their wives and dependants to the exclusion of any provision for pension allowance or gratuity in respect of a person's employment as such a fireman contained in or in force under any enactment:

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

(*a*) any such provision in respect of a person's employment or service otherwise than as a member of a brigade which is treated for the purposes of this Scheme as employment as a regular fireman ; or

(*b*) the National Insurance Act 1965 or the National Insurance (Industrial Injuries) Act 1965.

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

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

(*a*) this Scheme shall apply as though the brigade of which he becomes a member and the authority maintaining that brigade were, respectively, the same brigade and authority as the brigade first mentioned in this paragraph and the authority maintaining that brigade ;

(*b*) where he held the rank of assistant divisional officer or any higher rank in the brigade first mentioned in this paragraph but suffers or has suffered reduction in rank attributable to the provisions of such an instrument, Article 73 shall apply as though he had not suffered such reduction in rank, unless he elects otherwise by notice in writing to the fire authority.

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

(*a*) this Scheme shall apply as though he had retired from the brigade after having given due notice of retirement to the fire authority and, if the fire authority so agree, as though the notice of retirement had been given with their permission, and

(*b*) where he becomes a regular fireman in another brigade before the end of his resettlement period, Article 30 shall apply as though he had become a member of that other brigade immediately after ceasing to be a member of the brigade first mentioned in this paragraph.

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

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

(*b*) whose last change of rank during the relevant period for the purposes of Article 38(3) (as modified by paragraph 4 of Schedule 10) was a reduction in rank attributable to the provisions of the said Act of 1963 or of any instrument mentioned in paragraph (4), and

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

Article 38 (as modified as aforesaid) shall apply as though paragraph (3) were omitted therefrom.

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

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

(a) 1963 c. 33. (b) 1933 c. 51. (c) 1958 c. 55.

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

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

Application of Scheme where modified by section 27 of principal Act

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

(2) Where such a person as aforesaid is entitled to both an ill-health and a special pension, then, for the purposes of Articles 9, 23, 24 and 25, his entitlement to, and the amount of, the ill-health pension shall be deemed to be the same as they would have been had he not been entitled to a special pension.

(3) Where in relation to such a person as aforesaid this Scheme is modified by reference to regulations made under either the Metropolitan Fire Brigade Act 1865(**a**) or the West Ham Corporation Act 1925(**b**), Article 9(1) shall apply in relation to him as if for the reference to 30 years' pensionable service there were substituted a reference to 28 years' pensionable service.

Age of compulsory retirement

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

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

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

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

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

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

(*b*) an additional completed half year of pensionable service, in any other case.

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

(*a*) he is entitled without a medical certificate to retire and receive a pension at the rate of 2 thirds of his average pensionable pay; or

(*b*) he elects that the provisions of paragraph (1) should apply to him, by notice in writing to the fire authority maintaining the brigade of which he is a member.

(4) Subject to paragraph (5), retirement shall also be compulsory for any male whole-time member of a brigade who has attained the age of 50 years

(**a**) 1865 c. 90. (**b**) 1925 c. cxii. (**c**) 1941 c. 22.

and completed 25 years' pensionable service if he is required to retire by the fire authority on the grounds that his retention in the brigade would not be in the general interests of its efficiency.

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

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

(*a*) he could have been compelled to retire under the statutory provisions or regulations applicable to him immediately before 18th August 1941, or

(*b*) he elects that the provisions of paragraph (1) should apply to him, by notice in writing to the fire authority maintaining the brigade of which he is a member.

Compulsory retirement on grounds of incapacity

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

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

Assessment of disablement

75.—(1) For the purposes of this Scheme the extent to which a person is disabled shall be determined by reference to the extent to which his earning capacity has been affected, and a person shall be deemed to be totally disabled if, and only if, he is incapable, by reason of infirmity of mind or body, of earning any money in any employment.

(2) For the purposes of this Article a person shall be treated as incapable of earning any money in any employment, notwithstanding that the infirmity of mind or body is not such as to prevent him being capable of work, if it is likely to prevent his earnings exceeding £104 in a year.

Meaning of " regular fireman "

76. In this Scheme the expression " regular fireman " means—

(*a*) a whole-time member of a brigade who was appointed on terms under which he is or may be required to engage in fire-fighting, not being a person whose employment is temporary only ; or

(*b*) a whole-time member of a brigade who—

(i) was, immediately before the appointed day, subject to the Fire Brigade Pensions Act 1925 ;

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

(ii) became, on that day, a whole-time member of a brigade serving the whole or any part of the area of the local authority by whom he was last employed as a member of a fire brigade before the appointed day; and

(iii) has not since the appointed day ceased to be a whole-time member of that brigade.

Meaning of "qualifying injury"

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

(*a*) as a regular fireman;

(*b*) as a professional fireman within the meaning of the Fire Brigade Pensions Act 1925, whether or not a member of the London Fire Brigade, or as a member of a police force employed whole-time on fire brigade duties within the meaning of the Fire Brigades Act 1938; or

(*c*) as a whole-time member of the National Fire Service to whom the National Fire Service (Preservation of Pensions) (Act of 1925) Regulations 1941(a), the National Fire Service (Preservation of Pensions) (London and West Ham) Regulations 1941(b), the National Fire Service (Preservation of Pensions) (Birmingham and Leicester) Regulations 1941, the National Fire Service (Preservation of Pensions) (Bolton and Derby) Regulations 1941 or the National Fire Service (Preservation of Pensions) (Police Firemen) Regulations 1941 applied.

Meaning of infirmity or death occasioned by an injury

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

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

(*a*) where a person dies while serving as a fireman, if it appears that the injury has so substantially aggravated the infirmity of mind or body that if he had not received that injury he would not have died at the time he in fact died;

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

Meaning of "aggregate contributions"

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

(*a*) all payments made by him to a fire authority under this Scheme, the Firemen's Pension Scheme 1964, the Firemen's Pension Scheme 1956, the Firemen's Pension Scheme 1952 or the Firemen's Pension Scheme 1948 (including payments made by way of rateable deductions from pay, payments made by way of additional pension contributions under Article 40 and payments made in pursuance of an undertaking) which relate to a period of service he is entitled to reckon as pensionable service for the purposes of this Scheme and have not been refunded to him; and

(*b*) the amount of any award by way of return of contributions which would have been made to him at the end of any period of service or employment, otherwise than as a regular fireman, by virtue of which he was subject to superannuation arrangements, being a period which he is entitled to

(a) S.R. & O. 1941/1268 (1941 I, p. 320). (b) S.R. & O. 1941/1272 (1941 I, p. 333).

reckon as pensionable service for the purposes of this Scheme, had he then voluntarily retired in circumstances entitling him to such an award under those arrangements.

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

(*a*) a payment under section 18 of the Fire Brigade Pensions Act 1925;

(*b*) a payment under section 10 of the Local Government Superannuation Act 1937(a);

(*c*) a payment under section 10 of the Local Government Superannuation (Scotland) Act 1937(b);

(*d*) a payment under section 12 of the Teachers (Superannuation) Act 1925(c);

(*e*) any analogous payment.

Meaning of reference to awards

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

(2) Any reference to a pension or other award to a regular fireman in Articles 10(1), 16(1), 22(1), 31, 32, 39(4), 48(6), 53(1) or 68(1) includes a reference to a pension or other award, as the case may be, under the Firemen's Pension Scheme 1964, the Firemen's Pension Scheme 1956, the Firemen's Pension Scheme 1952 or the Firemen's Pension Scheme 1948.

(3) Any reference in this Scheme to a widow's pension, however expressed, shall be construed as excluding a reference to a pension payable to a widow under Article 24.

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

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

"employed contributor's employment";

"graduated contribution";

"graduated retirement benefit";

"non-participating employment";

"payment in lieu of contributions".

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

(*a*) relevant service in the armed forces; and

(*b*) non-participating employment at the end of which no payment in lieu of contributions falls to be made,

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

(3) In this Scheme any reference to the secured portion of a pension is a reference to the portion of the pension which equals the graduated retirement benefit which would be payable to the pensioner, on the assumption that he retired from regular employment on attaining insured pensionable age, in return for a payment in lieu of contributions in respect of the whole of any period of

(a) 1937 c. 68. (b) 1937 c. 69. (c) 1925 c. 59.

non-participating employment by virtue of which he is entitled to reckon pensionable service for the purposes of the pension, being a period of non-participating employment at the end of which no payment in lieu of contributions in fact fell to be made; and any reference to the unsecured portion of a pension shall be construed accordingly.

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

(4) For the purposes of this Scheme, the annual rate of graduated retirement benefit shall be determined as if there were 52¼ weeks in each year.

Meaning of certain expressions

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

"appointed day" means, in relation to England, 1st April 1948, and in relation to Scotland, 16th May 1948;

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

"brigade" means a fire brigade maintained under the principal Act;

"child" includes, in relation to any person, a step-child, an illegitimate child and a child adopted by him in pursuance of an adoption order made under the Adoption of Children Act 1926(a), the Adoption of Children (Scotland) Act 1930(b), the Adoption Act 1950(c) or the Adoption Act 1958(d); and the expressions "father", "mother", "parent" and "grandparent" shall be construed accordingly;

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

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

"injury" includes disease;

"principal Act" means the Fire Services Act 1947(e);

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

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

"relevant Pensions (Increase) Acts" means the Pensions (Increase) Acts 1944 and 1947(f), the Pensions (Increase) Act 1956(g), the Pensions (Increase) Act 1959(h), the Pensions (Increase) Act 1962 and the Pensions (Increase) Act 1965(i);

"relevant service in the armed forces" means—

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

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

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

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

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

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

(a) 1926 c. 29. (b) 1930 c. 37. (c) 1950 c. 26. (d) 7 & 8 Eliz. 2. c. 5.
(e) 1947 c. 41. (f) 1944 c. 21 and 10 & 11 Geo. 6. c. 7. (g) 1956 c. 39.
(h) 1959 c. 50. (i) 1965 c. 78. (j) 1948 c. 64.

Construction of references to provisions of Scheme

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

Construction of references to enactments and instruments

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

Application of the Interpretation Act 1889

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

Citation

86. This Scheme may be cited as the Firemen's Pension Scheme 1966.

SCHEDULE 1

PART I — Article 1

FIREMAN'S ORDINARY PENSION

Subject as hereafter in this Schedule provided, an ordinary pension shall be of an amount of not more than 40 sixtieths of the fireman's average pensionable pay and, subject as aforesaid, shall be equal to 30 sixtieths of his average pensionable pay with the addition of a sixtieth for each completed half year by which his pensionable service exceeds 25 years.

PART II — Articles 2 and 3

FIREMAN'S SHORT SERVICE OR ILL-HEALTH PENSION

Subject as hereafter in this Schedule provided, a short service or ill-health pension shall be of an amount of not less than a sixtieth nor more than 40 sixtieths of the fireman's average pensionable pay and, subject as aforesaid, shall be equal to a sixtieth of his average pensionable pay for each completed year of pensionable service up to 20 years with the addition of a sixtieth for each completed half year by which his pensionable service exceeds 20 years.

PART III — Articles 1, 2 and 3

REDUCTION OF FIREMAN'S PENSION AT AGE 65

1.—(1) Subject as hereafter in this paragraph provided, the unsecured portion of an ordinary, ill-health or short service pension shall be reduced in respect of any period beyond the age of 65 years by an amount calculated at an annual rate obtained by multiplying £1 14s. by the number of years specified in sub-paragraph (4).

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

(3) Subject as hereafter in this paragraph provided, in the case of a person who immediately before he retired and was granted a pension was paying pension contributions at a rate of 1s. 2d. a week less than the appropriate percentage of his pensionable pay by reason of his having elected so to do as mentioned in Article 39(4) the reduction under sub-paragraph (1) shall be calculated not as therein stated but at an annual rate obtained by multiplying the sum in the second column of the following Table set opposite to his age on the

(a) 1889 c. 63.

Sch. 1 (*contd.*)

appointed day in the first column of the said Table by the number of years specified in sub-paragraph (4):—

TABLE

Age in years	Sum to be multiplied		
	£	s.	d.
Under 23	1	14	0
23 but under 24	1	13	0
24 „ „ 25	1	12	0
25 „ „ 26	1	11	0
26 „ „ 27	1	10	6
27 „ „ 28	1	10	0
28 „ „ 29	1	9	6
29 „ „ 30	1	9	0
30 „ „ 31	1	8	6
31 „ „ 32	1	8	0
32 „ „ 33	1	7	6
33 „ „ 34	1	7	0
34 „ „ 35	1	6	6
35 „ „ 37	1	6	0
37 „ „ 38	1	5	6
38 „ „ 40	1	5	0
40 „ „ 42	1	4	6
42 „ „ 44	1	4	0
44 and over	1	3	6

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

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

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

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

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

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

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

(a) 1946 c. 67.

Sch. 1 *(contd.)*

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

(*a*) in respect of which he was subject to superannuation arrangements;

(*b*) by virtue of which he is entitled to reckon pensionable service for the purposes of the pension; and

(*c*) the period of which includes a participating period of relevant employment,

then, for the purpose of abating the pension in relation to that participating period of relevant employment, any provision of the said arrangements in operation when he left the said service or employment the effect of which is that pensions payable thereunder are to be reduced in connection with the operation of the National Insurance Act 1959(a) or of any provision of the National Insurance Act 1965 relating to graduated contributions or graduated retirement benefit shall apply, subject to the necessary adaptations and modifications, as though the provision were contained in this paragraph and as if—

(i) the pension were payable under the said arrangements, and

(ii) any other period of service or employment by virtue of which he is entitled to reckon pensionable service for the purposes of the pension were a period of non-participating employment at the end of which no payment in lieu of contributions falls to be made.

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

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

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

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

4.—(1) Where a person in receipt of the secured portion of an ill-health pension (granted under this Scheme, the Firemen's Pension Scheme 1964 or the Firemen's Pension Scheme 1956), the unsecured portion of which has been terminated in the circumstances mentioned in Article 6, is also in receipt of some other pension (being an ordinary, ill-health or short service pension granted under this Scheme) and is entitled to reckon for the purposes of that other pension the period of pensionable service reckonable for the purposes of the ill-health pension, then the unsecured portion of that other pension shall be reduced in accordance with the provisions of sub-paragraph (2).

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

(a) 1959 c. 47.

Sch. 1 (*contd.*)

Articles 1, 2 and 3

PART IV

REDUCTION OF PENSION PAYABLE TO PERSON PAYING PENSION CONTRIBUTION AT A RATE RELATED TO SIX PER CENT. OF PENSIONABLE PAY

1. The amount of an ordinary, ill-health or short-service pension payable to a man who was immediately before his retirement paying pension contributions at a rate related to 6 per cent. of his pensionable pay shall, subject to the provisions of this Part of this Schedule, be reduced by that percentage which is set out in the second column of the following Table opposite the number of completed years of pensionable service he is entitled to reckon—

(*a*) by virtue of service before 26th August 1966;

(*b*) by virtue of service on or after that date in respect of which he has not paid pension contributions at a rate related to 6 per cent. of his pensionable pay;

(*c*) by virtue that he had been entitled to a special pension if, for the purposes of Article 29(3) of the Firemen's Pension Scheme 1956, of Article 32 of the Firemen's Pension Scheme 1964 or of Article 32 of this Scheme, as the case may be, he undertook to pay a sum calculated by reference to pension contributions at a rate related to 5 per cent. of pensionable pay:—

TABLE

Completed years of pensionable service	Percentage reduction in pension
1	0·2
2	0·4
3	0·6
4	0·8
5	1·0
6	1·2
7	1·3
8	1·4
9	1·6
10	1·7
11	1·8
12	1·9
13	2·1
14	2·2
15	2·3
16	2·4
17	2·5
18	2·6
19	2·7
20	2·8
21	2·9
22	3·0
23	3·1
24	3·2
25	3·2
26	3·3
27	3·4
28	3·4
29	3·5
30 or more	3·5

2. In calculating the amount of the said reduction no account shall be taken of any period of pensionable service he is entitled to reckon—

(*a*) by virtue of such service or employment as is mentioned in Article 34(1) or 35(1); or

(*b*) by virtue of relevant service in the armed forces, on or after 26th August 1966, in respect of which pension contributions were not payable.

Sch. 1 (*contd.*)

3. If he elected to pay additional pension contributions under Article 40 and paid such contributions in accordance therewith until he became entitled to reckon 25 years' pensionable service or retired with a pension, in calculating the amount of the said reduction no account shall be taken of any pensionable service of which account was taken for the purpose of calculating the rate of his additional contributions.

4. In calculating the amount of the said reduction there shall be disregarded any reduction in the amount of the pension in accordance with the provisions of Article 9 or 24 or of Part III of this Schedule.

PART V Articles 2 and 3

FIREMAN'S SHORT SERVICE OR ILL-HEALTH GRATUITY

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

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

(*b*) his aggregate contributions.

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

PART VI Articles 2 and 3

REDUCTION OF FIREMAN'S GRATUITY

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

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

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

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

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

PART VII Article 4

MINIMUM INJURY AWARD

1. The minimum injury award shall be determined by reference to the number of completed years of pensionable service the fireman is entitled to reckon and by reference to his average pensionable pay.

2. Where the fireman is totally disabled, the minimum injury award shall be the amount specified in the second column of the following Table, and where

Sch. 1 (*contd.*)

the fireman is partly disabled, the minimum injury award shall be such proportion of the amount so specified as the extent of the actual disablement bears to total disablement, so however that it is not less than the lower limit specified in the third column of the said Table:—

TABLE

Fireman's completed years of pensionable service	Minimum injury award on total disablement expressed in 60ths of average pensionable pay	Lower limit of minimum injury award expressed in 60ths of average pensionable pay
Less than 11	40	15
11 but less than 12	40	16
12 " " " 13	40	17
13 " " " 14	40	18
14 " " " 15	41	19
15 " " " 16	41	20
16 " " " 17	42	21
17 " " " 18	42	22
18 " " " 19	43	23
19 " " " 20	43	24
20 " " " 21	44	25
21 " " " 22	44	27
22 " " " 23	45	29
23 " " " 24	45	31
24 " " " 25	46	33
25 " " " 26	46	35
26 " " " 27	47	36
27 " " " 28	47	37
28 " " " 29	48	38
29 " " " 30	49	39
30 or more	50	40

SCHEDULE 2

Article 10

PART I

WIDOW'S ORDINARY PENSION—STANDARD RATE

1. Subject to paragraph 2, the weekly amount of a widow's ordinary pension calculated in accordance with this Part of this Schedule shall be not more than 40 one-hundred-and-eightieths of her husband's average pensionable pay and, subject as aforesaid, shall be equal to a one-hundred-and-eightieth of his average pensionable pay for each completed year of pensionable service up to 20 years with the addition of a one-hundred-and-eightieth for each completed half year by which his pensionable service exceeded 20 years.

Sch. 2 *(contd.)*

2.—(1) Subject to sub-paragraph (2), where in respect of any period a widow so elects, her ordinary pension in respect of that period shall be of such amount that the rate of payment is—

(*a*) where the husband's last rank was not higher than that of sub-officer, £81 a year;

(*b*) where the husband's last rank was higher than that of sub-officer but not higher than that of divisional officer (Grade I), £106 a year;

(*c*) where the husband's last rank was higher than that of divisional officer (Grade I), £132 a year.

(2) Where the husband was entitled to reckon at least 10 years' pensionable service, the preceding sub-paragraph shall have effect as if for the rates of £81, £106 and £132 a year there were substituted, respectively, the rates of £86, £111 and £137 a year.

PART II Article 10

WIDOW'S ORDINARY PENSION—PRESERVED RATE

The amount of a widow's ordinary pension in respect of each week shall be the amount calculated according to Scheme I set out below, or where the fireman was entitled to reckon at least 10 years' pensionable service, according to whichever of the two Schemes set out below would yield to the widow the higher pension, after taking into account the increase, if any, conferred by virtue of the relevant Pensions (Increase) Acts.

SCHEME I

1. Subject as hereinafter provided, the pension shall be of such amount that the rate of payment is—

(*a*) where the husband's last rank was not higher than that of sub-officer, £81 a year;

(*b*) where the husband's last rank was higher than that of sub-officer but not higher than that of divisional officer (Grade I), £106 a year; or

(*c*) where the husband's last rank was higher than that of divisional officer (Grade I), £132 a year.

2. In any case in which the rate of payment specified in the preceding paragraph falls to be increased under any of the relevant Pensions (Increase) Acts, otherwise than under section 2 of the Pensions (Increase) Act 1962(a), that paragraph shall have effect as if for the rate specified there were substituted such lower rate as, together with the increase, yields a pension at the specified rate.

SCHEME II

1. Subject as hereinafter provided, the pension shall be of such amount that, when it is added to any widow's benefit or retirement pension payable to the widow under the National Insurance Act 1965(b) in right of her husband's

(a) 1962 c. 2. (b) 1965 c. 51.

Sch. 2 *(contd.)*

insurance, the total weekly rate of payment is equal to the percentage of his average pensionable pay specified in the second column of the following Table being the percentage set out opposite to the number of his completed years of pensionable service in the first column of the said Table:—

TABLE

Husband's completed years of pensionable service	Total weekly rate
10, 11, 12, 13 and 14	5 per cent.
15, 16, 17, 18 and 19	7½ per cent.
20, 21, 22, 23 and 24	10 per cent.
25, 26, 27, 28 and 29	12½ per cent.
30 or more	16 per cent.

2. The amount of the pension calculated in accordance with the preceding paragraph shall be increased in accordance with Schedule 4.

Article 10

PART III

WIDOW'S ORDINARY GRATUITY

1. Where the fireman was not entitled to reckon a year's pensionable service, the gratuity shall be an amount equal to his aggregate contributions.

2. Where the fireman was entitled to reckon at least a year's pensionable service, the gratuity shall be of such amount as the fire authority may determine, not being less than his aggregate contributions and not being more than a twelfth of his average annual pensionable pay multiplied by the number of his completed years of pensionable service.

Article 11

PART IV

WIDOW'S SPECIAL PENSION

1. Subject as hereinafter provided, a widow's special pension shall be of an amount not less than a fifth of her husband's average pensionable pay and, subject as aforesaid, shall be of such amount that, when it is added to—

(*a*) any pension payable to her under the National Insurance (Industrial Injuries) Act 1965(a) in consequence of the death of her husband; and

(*b*) any widow's benefit or retirement pension payable to her under the National Insurance Act 1965 in right of her husband's insurance,

the total weekly rate of payment is equal to a third of her husband's average pensionable pay.

2. The amount of the pension calculated in accordance with the preceding paragraph shall be increased in accordance with Schedule 4.

Article 12

PART V

WIDOW'S GRATUITY BY WAY OF COMMUTED PENSION

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

(a) 1965 c. 52.

SCHEDULE 3

PART I — Article 16

CHILD'S ORDINARY ALLOWANCE

1. Subject to paragraph 3 and Part III of this Schedule, where the mother of the child is alive the child's ordinary allowance shall be of such amount that the rate of payment is—

(*a*) where the father's last rank was not higher than that of sub-officer, £28 a year;

(*b*) where the father's last rank was higher than that of sub-officer but not higher than that of divisional officer (Grade I), £33 a year; or

(*c*) where the father's last rank was higher than that of divisional officer (Grade I), £41 a year.

2. Subject to paragraph 3 and Part III of this Schedule, where the father was the child's only surviving parent or in respect of the period after the death of the mother, the child's ordinary allowance shall be of such amount that the rate of payment is—

(*a*) where the father's last rank was not higher than that of sub-officer, £41 a year or such higher rate not exceeding £54 a year as the fire authority may from time to time determine;

(*b*) where the father's last rank was higher than that of sub-officer but not higher than that of divisional officer (Grade I), £48 a year or such higher rate not exceeding £64 a year as the fire authority may from time to time determine; or

(*c*) where the father's last rank was higher than that of divisional officer (Grade I), £61 a year or such higher rate not exceeding £81 a year as the fire authority may from time to time determine.

3. In any case in which the rate of payment specified in paragraph 1 or 2, as the case may be, falls to be increased under any of the relevant Pensions (Increase) Acts, the appropriate paragraph shall have effect as if for the rate specified there were substituted such lower rate as, together with the increase, yields an allowance at the specified rate.

PART II — Article 17

CHILD'S SPECIAL ALLOWANCE

1. Subject to the provisions of Part III of this Schedule, if and so long as the child has a parent living, the child's special allowance shall be payable at the rate of a fifteenth of the average pensionable pay of the parent in respect of whose death it is payable.

2. Subject to the provisions of Part III of this Schedule, a child's special allowance shall be payable, if the child has no parent living, at the rate of a tenth of the said parent's average pensionable pay or at such greater rate, not exceeding 2 fifteenths thereof, as the fire authority may from time to time determine.

Sch. 3 (*contd.*)
Articles 16 and 17

PART III

VARIATION OF CHILD'S ALLOWANCE

1.—(1) Subject as hereinafter provided, where under any enactment specified in the first column of the following Table a payment specified in the second column is made to the recipient mentioned in the third column thereof, a child's ordinary or special allowance shall be reduced by so much as is necessary to reduce the allowance or, in the case of a special allowance, the increased allowance, by the weekly amount specified in the fourth column, and where that reduction is greater than the allowance determined under Part I or II of this Schedule, that allowance shall not be payable.

In this sub-paragraph the expression "increased allowance" in relation to a child's special allowance means the amount which would be payable in respect thereof by virtue of this Scheme and the relevant Pensions (Increase) Acts, if this paragraph were not in force.

TABLE

1 Enactment	2 Type of Payment	3 Recipient	4 Weekly Reduction
			s. d.
National Insurance Act 1965, s. 27.	Widowed mother's allowance...	Child's mother.	7 6
National Insurance Act 1965, s. 29.	Guardian's allowance in respect of the child.	Child's guardian.	12 0
National Insurance Act 1965, s. 40.	Increased widow's allowance ...	Child's mother.	7 6
National Insurance Act 1965, s. 40.	Increased retirement pension ...	Child's mother.	7 6
Family Allowances Act 1965.	Family allowance in respect of the child.	Any person	5 0
National Insurance (Industrial Injuries) Act 1965, s. 21.	Death benefit in respect of the deceased's child at the higher weekly rate prescribed by that section.	Any person	7 6

(2) Where a woman has 2 or more children who would apart from the provisions of this paragraph be entitled to a child's allowance, only the allowance of the elder or eldest of those children shall be reduced in respect of the payment to her of a widowed mother's allowance, increased widow's allowance or increased retirement pension.

(3) Where the child's allowance is an ordinary allowance, it shall not be reduced in respect of the payment of death benefit.

2. The amount of a child's special allowance calculated in accordance with the preceding provisions of this Schedule shall be increased in accordance with Schedule 4.

Article 18

PART IV

CHILD'S GRATUITY BY WAY OF COMMUTED ALLOWANCE

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

SCHEDULE 4 Articles 10, 11, 17, 53 and 60

INCREASE IN WIDOW'S PENSION OR CHILD'S ALLOWANCE

Where it is provided in this Scheme that for the purpose of calculating a widow's pension or child's allowance an amount shall be increased in accordance with this Schedule, it shall be increased by the amount which, together with any increase relating to the last-mentioned amount under the Pensions (Increase) Acts 1944 and 1947, equals the amount, if any, by which the relevant widow's pension or child's allowance would from time to time be increased if—

(*a*) it were a pension specified in Part II of Schedule 1 to the Pensions (Increase) Act 1952(a) of the amount first mentioned in this paragraph; and

(*b*) any reference in Schedule 2 to that Act—

(i) to a relevant pension included a reference to a pension or allowance under this Scheme of an amount which is increased in accordance with this Schedule;

(ii) to the rate of a relevant pension included a reference to the rate of such a pension or allowance ignoring any increase in accordance with this Schedule; and

(iii) to the authorised increase included a reference to the increase in the amount of such a pension or allowance in accordance with this Schedule.

SCHEDULE 5 Articles 31, 32, 34 and 35

PAYMENTS BY FIREMEN IN RESPECT OF PREVIOUS SERVICE

1. Where a fireman undertakes to make payments in accordance with this Schedule, he shall pay by regular instalments of such an amount that the payment will be completed within a period of 5 years and before he can be required to retire under Article 73:

Provided that—

(*a*) he may on giving the said undertaking or at any later date discharge his liability thereunder, in whole or in part by paying the whole or part of the sum, or balance of the sum then outstanding, as the case may be;

(*b*) if he retires and is not entitled to an award other than one of an amount equal to his aggregate contributions, or dies, all further liability under the said undertaking shall cease;

(*c*) if he retires before his liability under the said undertaking is discharged and his liability does not cease in accordance with the provisions of proviso (*b*) to this paragraph, the fire authority shall be empowered to deduct the balance of the sum then outstanding from payments of any award payable to him.

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

(a) 1952 c. 45.

Article 31

SCHEDULE 6

SUMS TO BE PAID BY FIREMEN IN RESPECT OF PREVIOUS SERVICE

1. Subject to paragraph 2, the sum to be paid by a regular fireman under an undertaking given under Article 31(4) of this Scheme shall be, in respect of each year of pensionable service reckonable under Article 31(4) and in respect of £100 of annual pensionable pay, the sum shown in the second column of the following Table in relation to an age which corresponds with that of the fireman, and the total sum to be paid as aforesaid shall be calculated proportionately by reference to the pensionable service so reckonable and to his annual pensionable pay:—

TABLE

Age in years	Amount for £100 of annual pensionable pay
	£ s. d.
Under 38	9 10 0
38 but under 39	9 12 0
39 " " 40	9 14 0
40 " " 41	9 16 0
41 " " 42	9 18 0
42 " " 43	10 1 0
43 " " 44	10 4 0
44 " " 45	10 8 0
45 " " 46	10 11 0
46 " " 47	10 14 0
47 " " 48	10 18 0
48 " " 49	11 1 0
49 " " 50	11 5 0
50 " " 51	11 8 0
51 " " 52	11 12 0
52 " " 53	11 16 0
53 " " 54	12 0 0
54 " " 55	12 6 0
55 and over	12 12 0

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

Article 40

SCHEDULE 7

ADDITIONAL PENSION CONTRIBUTIONS

1. Where a regular fireman has elected to pay additional pension contributions, he shall pay such contributions at a rate equal to that percentage of his pensionable pay which is set opposite in the following Table to the number

Sch. 7 (*contd.*)

of completed years of pensionable service reckonable by him at the time he made his election, by virtue of a period of service, or period for which a special pension was payable, before 26th August 1966:—

TABLE

Completed years of pensionable service	Rate expressed as a percentage of pensionable pay
1	0·1
2	0·1
3	0·2
4	0·2
5	0·3
6	0·4
7	0·5
8	0·6
9	0·7
10	0·8
11	0·9
12	1·0
13	1·2
14	1·4
15	1·7
16	2·0
17	2·4
18	3·0
19	3·8
20	3·8

2. In calculating the rate at which additional pension contributions are payable by a person no account shall be taken of any period of pensionable service he is entitled to reckon by virtue of such service or employment as is mentioned in Article 34(1) or 35(1).

SCHEDULE 8

Article 46

APPEALS TO MEDICAL REFEREES

1. The person seeking to appeal must institute his appeal within 14 days from the date on which he is supplied by the fire authority with a copy of the opinion in pursuance of Article 46:

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

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

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

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

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

Sch. 8 (*contd.*)

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

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

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

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

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

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

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

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

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

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

8.—(1) The medical referee shall be entitled to the following fees and allowances:—

(*a*) for giving his opinion on the appeal, a fee of 6 guineas or such higher fee as the Secretary of State may determine in any particular case;

(*b*) where, solely for the purposes of the appeal, he travels 2 miles or more from his place of residence or from any place where he practises, and in the circumstances it is not unreasonable for him so to travel, an allowance of 5s. 0d. for each full mile up to 10 full miles, and 1s. 0d. for each full mile thereafter;

(*c*) where he incurs fees or expenses in respect of expert assistance in a case involving special difficulty, an allowance of such amount, if any, as the Secretary of State may approve, not exceeding the amount of those fees or expenses.

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

Sch. 8 (*contd.*)

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

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

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

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

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

SCHEDULE 9

Article 50

Transfer Values

1.—(1) The sum to be paid by a fire authority under Article 50 shall be calculated in accordance with this paragraph.

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

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

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

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

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

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

Sch. 9 (*contd.*)

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

TABLE

Age in years	Amount for £100 of annual pensionable pay in respect of each completed	
	Year	Month
	£ s. d.	£ s. d.
Under 35	18 4 0	1 10 0
35 but under 36	18 6 0	1 11 0
36 " " 37	18 9 0	1 11 0
37 " " 38	18 13 0	1 11 0
38 " " 39	18 18 0	1 12 0
39 " " 40	19 4 0	1 12 0
40 " " 41	19 9 0	1 12 0
41 " " 42	19 15 0	1 13 0
42 " " 43	20 1 0	1 13 0
43 " " 44	20 8 0	1 14 0
44 " " 45	20 15 0	1 15 0
45 " " 46	21 2 0	1 15 0
46 " " 47	21 9 0	1 16 0
47 " " 48	21 16 0	1 16 0
48 " " 49	22 3 0	1 17 0
49 " " 50	22 10 0	1 18 0
50 " " 51	22 17 0	1 18 0
51 " " 52	23 4 0	1 19 0
52 " " 53	23 12 0	1 19 0
53 " " 54	24 1 0	2 0 0
54 " " 55	24 12 0	2 1 0
55 and over	25 4 0	2 2 0

2. The sum to be paid by a fire authority under Article 50, calculated in accordance with the preceding provisions of this Schedule, shall be reduced by the amount he has, under Article 31(1), undertaken to pay in accordance with Schedule 5.

3. Except in the case of a fireman who is paying pension contributions at the rate of 2d. a week less than the appropriate percentage of his pensionable pay, the sum to be paid by a fire authority under Article 50, calculated in accordance with the preceding provisions of this Schedule, shall be reduced by an amount calculated in accordance with paragraph 5.

4. In the case of a fireman entitled to reckon pensionable service, immediately before he ceases to be employed by a fire authority, by virtue of a participating period of relevant employment, the sum to be paid by that authority under Article 50, calculated in accordance with the preceding provisions of this Schedule, shall be reduced by an amount calculated in accordance with paragraph 5.

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

(*a*) under paragraph 1 of Part III of Schedule 1, in a case in which paragraph 3 applies;

Sch. 9 (*contd.*)

(*b*) under paragraphs 2 and 3 of the said Part III, in a case in which paragraph 4 applies,

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

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

TABLE

Age in years	Amount of the reduction in respect of each £1 by which the annual value of a pension would be reduced
	£ s. d.
Under 25	1 14 0
25 but under 26	1 16 0
26 " " 27	1 18 0
27 " " 28	2 0 0
28 " " 29	2 2 0
29 " " 30	2 4 0
30 " " 31	2 7 0
31 " " 32	2 9 0
32 " " 33	2 11 0
33 " " 34	2 13 0
34 " " 35	2 15 0
35 " " 36	2 18 0
36 " " 37	3 0 0
37 " " 38	3 2 0
38 " " 39	3 5 0
39 " " 40	3 7 0
40 " " 41	3 10 0
41 " " 42	3 13 0
42 " " 43	3 15 0
43 " " 44	3 18 0
44 " " 45	4 1 0

SCHEDULE 10 Article 68

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

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

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

3. In Article 1(1) the words "has attained the age of 50 years and" shall be omitted.

Sch. 10 (*contd.*)

4. For Article 38(2) and (3) there shall be substituted the following provisions:—

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

(*a*) the expression 'pensionable pay' means his pensionable pay immediately before the death or retirement or, in a case where he was not serving as such a fireman when he died, his pensionable pay immediately before he last ceased to serve as such; and

(*b*) the expression 'annual pensionable pay' means the annual value of his said pensionable pay.

(3) Where during the relevant period before his death or retirement a regular fireman's rank has changed, paragraph (2) shall have effect in his case as if his pensionable pay immediately before the death or retirement were his average pensionable pay during that period:

Provided that where the last change in rank during the relevant period was a promotion and the said average is less than his pensionable pay would have been, immediately before the death or retirement, had he continued to hold the rank he held before the promotion, then paragraph (2) shall have effect in his case as though he had continued to hold that rank.

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

5. In Article 53—

(*a*) in paragraph (4)(*a*) for the words "£81 a year" there shall be substituted the words "£30 a year";

(*b*) for paragraph (5) there shall be substituted the following paragraph:—

"(5) Where an award is granted under paragraph (4)(*a*), the amount thereof shall be increased in accordance with Schedule 4 and for the purposes of the Pensions (Increase) Act 1952 as applied by that Schedule the pension shall be deemed to begin before 1st April 1948.".

6. In Article 73(2) for sub-paragraphs (*a*) and (*b*) there shall be substituted the words "an additional completed year of pensionable service".

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

"PART I

Subject as hereafter in this Schedule provided an ordinary pension shall be of an amount equal to 30 sixtieths of the fireman's pensionable pay with the addition of 2 sixtieths for each completed year by which his pensionable service exceeds 25 years up to the maximum set opposite his age at retirement in the following Table:—

TABLE

Years of age of fireman at retirement	Maximum pension expressed in 60ths of pensionable pay
Less than 51	30
Less than 52 but 51 or over	32
Less than 53 but 52 or over	34
Less than 54 but 53 or over	36
Less than 55 but 54 or over	38
55 or over	40"

Sch. 10 *(contd.)*

8. For Part II of Schedule 1 there shall be substituted the following Part:—

"PART II

A short service or ill-health pension shall be of an amount of not less than a sixtieth nor more than 40 sixtieths of the fireman's pensionable pay and subject as aforesaid shall be equal to a sixtieth of his pensionable pay for each completed year of pensionable service up to 20 years, with the addition of 2 sixtieths for each completed year by which his pensionable service exceeds 20 years.".

9. For Scheme I of Part II of Schedule 2 there shall be substituted the following Scheme:—

"SCHEME I

1. The pension shall be of such amount that the rate of payment is—

(*a*) where the husband's last rank was not higher than that of sub-officer, £30 a year;

(*b*) where the husband's last rank was higher than that of sub-officer but not higher than that of divisional officer (Grade I), £40 a year; or

(*c*) where the husband's last rank was higher than that of divisional officer (Grade I), £50 a year:

Provided that the said amount shall be increased in accordance with Schedule 4 and, for the purposes of the Pensions (Increase) Act 1952, as applied by that Schedule, the pension shall be deemed to begin before 1st April 1948.".

10. For Part I of Schedule 3 there shall be substituted the following Part:—

"PART I

1. Subject to paragraph 3 and Part III of this Schedule, where the mother of the child is alive the child's ordinary allowance shall be payable at the following rate:—

(*a*) where the father's last rank was not higher than that of sub-officer, £10 a year;

(*b*) where the father's last rank was higher than that of sub-officer but not higher than that of divisional officer (Grade I), £12 a year; or

(*c*) where the father's last rank was higher than that of divisional officer (Grade I), £15 a year.

2. Subject to paragraph 3 and Part III of this Schedule, where the father was the child's only surviving parent or in respect of the period after the death of the mother, the child's ordinary allowance shall be payable at the following rate:—

(*a*) where the father's last rank was not higher than that of sub-officer, £15 a year, or such higher rate not exceeding £20 a year as the fire authority may from time to time determine;

(*b*) where the father's last rank was higher than that of sub-officer but not higher than that of divisional officer (Grade I), £18 a year, or such higher rate not exceeding £24 a year as the fire authority may from time to time determine; or

(*c*) where the father's last rank was higher than that of divisional officer (Grade I), £22 10s. a year, or such rate not exceeding £30 a year as the fire authority may from time to time determine.

Sch. 10 *(contd.)*

3. A child's ordinary allowance, determined in accordance with paragraph 1 or, as the case may be, paragraph 2, shall be increased by the amount by which it would have been increased under the Pensions (Increase) Acts 1944 and 1947(a) had it been granted before the passing of the Pensions (Increase) Act 1956(b).".

11. In Part III of Schedule 3—

(*a*) in paragraph 1(1) the words "the allowance or, in the case of a special allowance" and the word "special", in the third place where it occurs, shall be omitted;

(*b*) after paragraph 2 there shall be added the following paragraph:—

"3. The amount of a child's ordinary allowance determined in accordance with the preceding provisions of this Schedule shall be increased in accordance with the provisions of Schedule 4 and, for the purposes of the Pensions (Increase) Act 1952 as applied by that Schedule, the allowance shall be deemed to begin before 1st April 1948.".

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order consolidates, with amendments, the Firemen's Pension Scheme 1964 (as set out in Appendix 2 to the Firemen's Pension Scheme Order 1964) and the amendments thereto contained in the Firemen's Pension Scheme (Amendment) Order 1965 and the Firemen's Pension Scheme (Amendment) (No. 2) Order 1965 which cease to have effect save in relation to retirements, deaths and certain other matters occurring before 26th August 1966, when the new Scheme comes into force.

The principal changes incorporated in the new Scheme relate to the right of a regular fireman to commute for a lump sum a portion of his pension and to new arrangements for widows' ordinary pensions.

Under Article 9 the portion of a pension which a regular fireman may commute is increased from a sixth to a quarter and commutation is no longer conditional on the fireman satisfying the fire authority of his good health.

Article 10(2)(*a*) provides for the payment of a widow's ordinary pension at a higher rate in the case of a widow of a regular fireman who has paid contributions at the increased rate introduced by Article 39(1), which increases from 5 per cent. to 6 per cent. the rate of contribution. Regular firemen serving on 26th August 1966 are, by Regulation 39(2), given the choice of continuing to pay contributions at the old rate or of paying contributions at the increased rate. There is no change in the rate of widows' ordinary pension where the fireman retired or died before 26th August 1966 or continues to serve after that date but chooses to continue to pay contributions at the old rate, other than that consequential on the consolidation of increases under the Pensions (Increase) Act 1965 and the basic rates of flat rate dependants' awards.

Article 10(2)(*a*), read with Part I of Schedule 2, provides for the calculation of the new higher rate of widows' ordinary pension by reference to the husband's pay and service, the rate being, subject to certain qualifications and

(a) 1944 c. 21 and 10 & 11 Geo. 6. c. 7. (b) 1956 c. 39.

a flat rate minimum, one-third of that of his retirement pension. In calculating the new higher rate of widows' ordinary pension account is taken of service both before and after 26th August 1966, notwithstanding that the husband has paid the increased rate of contributions only in respect of service after that date. A regular fireman who pays contributions at the increased rate is required to make appropriate additional payment in respect of his service before 26th August 1966 by way of a reduction in his own pension or, in certain cases if he so chooses, by way of payment of additional pension contributions ; provision for the reduction in pension is made by Part IV of Schedule 1 and for the payment of additional pension contributions by Article 40 and Schedule 7.

Article 16 provides that a child's ordinary allowance shall not be payable in respect of any period for which the child's mother is in receipt of a widows' ordinary pension at the new higher rate.