

**Spouse's or civil partner's requisite benefit and temporary pension**

**Rule C6 sets out the terms of eligibility for a spouse's or civil partner's pension where a firefighter's service is less than 2 years but he/she has reached the tax year in which he/she attains State pensionable age.**

**Part V of Schedule 3 explains how the requisite benefits pension should be calculated.**

**Eligibility for a spouse's or civil partner's requisite benefit and temporary pension**

This Rule was put in the FPS to comply with contracting-out arrangements introduced in 1978 (see Annexe 8 which explains the inter-relationship between the FPS and the State pension scheme). It ensures that a pension would be paid to the spouse or civil partner of a firefighter who dies, having reached the tax year in which he attains State pensionable age (65 for men, 60 to 65 for women according to date of birth – again, see Annexe 8) even if service is insufficient to allow any other award to be payable.

Rule C6(1) applies the provision if a person –

- is or has been a regular firefighter who has paid contributions,
- is entitled to reckon less than 2 years' pensionable service,
- dies after the beginning of the tax year in which he/she attains state pensionable age, and

leaves a spouse or civil partner.

**Exclusions**

Rule C6(1)(b) says that this Rule would not apply if a spouse's or civil partner's accrued pension would be payable under Rule C4. Because a firefighter must normally have 2 years' pensionable service for Rule C4 to apply, this is unlikely to be the case.

If the surviving spouse or civil partner is entitled to any other benefits under Part C, this Rule would not apply.

**Limitations**

Rule C10 explains that if a pension sharing order has been issued by a court on divorce, dissolution of a civil partnership or annulment, a spouse's or civil partner's benefits under Rule C6 will be reduced in line with the required reduction in the firefighter's own benefits. (See Annexe 14 for the effect of divorce or dissolution of civil partnership on pension rights.)

See Rule C8 (limitation where spouses or civil partners living apart) for the adjustment or limitation of benefits in these circumstances – although the benefits payable under Rule C5 are likely to be similar in any event.

Although there is no reference to the effect of Rule B8 (Commutation – small pensions) in Rule C6, if you had been entitled to a pension under Part B and it had been commuted under Rule B8 on or after 6 April 2006, the effect of the tax regime operative from that date would mean that the commutation would remove all entitlement to dependants' benefits and so a pension under C6 could not be paid. However, commutation under Rule B8 before 6 April 2006 would not affect dependants' benefits.

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**Rule C6 (continued)**

**Method of calculation**

Rule C6(2)(a) provides a temporary pension for the first 13 weeks following death and Rule C6(2)(b) provides a requisite pension thereafter.

Rule C6(3) says that the temporary pension is calculated on similar principles to the allowance for the first 13 weeks paid under Rule E8.

It is assessed as A – B where:

A is weekly pensionable pay immediately before death (death in service) or any weekly pension (plus Pensions Increase), and

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

Rule C6(4)(a) says that the requisite benefit for a surviving spouse is assessed as set out in Part V of Schedule 3. This would be –

$$1/160 \times \begin{matrix} \text{years and days of pensionable} \\ \text{service after 5 April 1978} \end{matrix} \times \text{average pensionable pay}^*$$

Rule C6(4)(b) says that the requisite benefit for a surviving civil partner would be assessed on similar principles but with the substitution of 5 April 1988 for 5 April 1978. This would be –

$$1/160 \times \begin{matrix} \text{years and days of pensionable} \\ \text{service after 5 April 1988} \end{matrix} \times \text{average pensionable pay}^*$$

\*Average pensionable pay is explained in Rule G1.

If you die while serving as a regular firefighter and the capitalised value of the requisite benefit pension is less than your average pensionable pay, Rule C6(5) says that your surviving spouse or civil partner would be entitled to a lump sum equal to the difference between the two amounts. (The Government Actuary would work out the capital value of the requisite benefit pension.)

**Effect of part-time service**

The requisite benefit pension would be affected by any part-time service. Schedule 3 Part V pro rates the pension in these circumstances by reference to the formula in Schedule 2 Part VIA.

(The pro rating for part-time service would be applied before any pro rating for civil partnership.)

**Tax**

Dependants' pension benefits are not tested for Lifetime Allowance purposes following the death of a pension scheme member, but the aggregate of dependants' scheme pensions must not exceed the amount of the member's scheme pension at the date of his/her death.

**Payment**

Payment will be made in accordance with Rules L3 and L5.

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**Rule C6 (continued)**

**Example**                      Examples of the assessment of a spouse's and a civil partner's award under this Rule are given on pages C6-Example 1 and C6-Example 2 respectively.

- Useful reference source**
- FSC 15/1978: explains the effect of contracting-out on entitlement to a widow's pension
  - FSC 30/2004: reduction of qualifying period for spouse's ordinary pension (3 years to 2 years); introduction of pension provisions for part-time regular firefighters
  - FPSC 5/2005: introduction of survivor's benefits for civil partners

**Points To Note**

1. Note that if you were living apart from your spouse or civil partner at the date of your death, pension rights are limited in accordance with Rule C8.
2. There is also a limitation on benefits in the case of a marriage or civil partnership which takes place after a firefighter has retired – see the explanation of Rule C5.
3. Following divorce or dissolution of a civil partnership your former spouse or civil partner does not have entitlement to benefits as a surviving spouse or civil partner when you die.
4. Rule L4 prevents a widow(er) or civil partner from receiving more than one pension in respect of a firefighter's death unless the firefighter had more than one period of service counting for dependant's benefits.
5. Payment of a spouse's or civil partner's pension will cease if –
  - your widow(er) remarries or forms a civil partnership, or
  - your civil partner forms a subsequent civil partnership or marries
 – see the explanation of Rule C9.
6. Forfeiture of a spouse's or civil partner's pension is possible but uncommon. However, if a firefighter's pension is forfeited the spouse's or civil partner's pension too, may be reduced or lost. In this case, though, it must not be reduced below the level of the spouse's Guaranteed Minimum Pension (see the explanation in Rule J1) if there is one.
7. A spouse's or civil partner's pension is reduced if the firefighter's pension is reduced in accordance with a pension sharing order made by a court on divorce, dissolution of civil partnership or annulment. However, if following divorce, dissolution of civil partnership, annulment or judicial separation a firefighter's pension has been made subject to an "earmarking" order this will have no effect on the spouse's or civil partner's entitlement to a pension. See Annexe 14 for more information about the effect of divorce, etc. on pension rights.

**Spouse's or civil partner's requisite benefit and temporary pension**

**Rule C6 (continued)**

**Points To Note continued**

8. Pension provisions for part-time regular firefighters were introduced on 13 September 2004.
9. Dependant's benefit provisions were introduced for civil partners on 5 December 2005 by legislation made under the Civil Partnership Act 2004. Regulations made under the Act required that survivor benefits for civil partners should be based on service from 6 April 1988. This was the date from which survivor benefit provision for male and female dependants was equalized for all pension schemes. To take account of the effect of double accrual of service in the case of many benefits provided by the FPS, a civil partner's award is usually calculated as for a spouse's award and then pro rated:

$$\text{civil partner's award} = \text{spouse's award} \times \frac{\text{member's service after 5.4.1988}}{\text{member's total service}}$$

**Spouse's or civil partner's requisite benefit and temporary pension**

**Example of assessment of spouse's requisite benefit and temporary pension**

**Example A**

*A married male firefighter dies in service – not as a result of a qualifying injury – at age 64, in the same tax year in which he would attain age 65 (State pensionable age). At the date of death he had 1 year 125 days of service – all after 5 April 1978. His pensionable pay is £24,000 and his average pensionable pay is £22,000. He had paid £3,300 in pension contributions. No children's benefits are payable.*

Formula: 13 weeks x pensionable pay

then

service after 5.4.1978 x  $\frac{1}{160}$  x average pensionable pay

Spouse's award will be:

13 weeks x £24,000 a year

followed by

$1 \frac{125}{365} \times \frac{1}{160} \times £22,000 = £184.59$  a year

If an assessment by the Government Actuary were to show that the capitalised value of £184.59 a year is less than £3,300 the difference between the capitalised value and £3,300 would be paid to the widow.

The spouse's requisite benefit pension above will be increased by Pensions Increase from the date at the end of the averaging period used for working out APP, i.e. normally from the day after the firefighter's last day of service. The spouse's pension will continue to be increased in this way each year. See Annexe 10 for more information about Pensions Increase and how it is applied.

**Spouse's or civil partner's requisite benefit and temporary pension**

**Example of assessment of civil partner's requisite benefit and temporary pension**

**Example A**

*A male firefighter who has a civil partner dies in service – not as a result of a qualifying injury – at age 66. At the date of death he had 1 year 279 days of service – all after 5 April 1988. His pensionable pay is £26,000 and his average pensionable pay is £23,500. He had paid £4,800 in pension contributions. No children's benefits are payable.*

Formula: 13 weeks x pensionable pay

then

service after 5.4.1988 x  $\frac{1}{160}$  x average pensionable pay

Civil partner's award will be:

13 weeks x £26,000 a year

followed by

$1 \frac{279}{365} \times \frac{1}{160} \times £23,500 = £259.14$  a year

If an assessment by the Government Actuary were to show that the capitalised value of £259.14 a year is less than £4,800 the difference between the capitalised value and £4,800 would be paid to the surviving civil partner.

The civil partner's requisite benefit pension above will be increased by Pensions Increase from the date at the end of the averaging period used for working out APP, i.e. normally from the day after the firefighter's last day of service. The civil partner's pension will continue to be increased in this way each year. See Annex 10 for more information about Pensions Increase and how it is applied.