

**Award to spouse or civil partner where no other award payable**

**Rule C7 sets out the terms of eligibility for a spouse's or civil partner's pension where the firefighter dies in service before the tax year in which he/she attains State pensionable age.**

- Eligibility** Rule C7 picks up cases where a serving firefighter dies in service before the tax year in which he/she would attain State pensionable age (60 for men, 60 to 65 for women according to the date of birth – see Annexe 8 which explains the inter-relationship between the FPS and the State pension scheme). It ensures that a payment would be made to the spouse or civil partner of a firefighter even if service is insufficient to allow any other award to be payable.
- Rule C7(1) sets out these terms of eligibility. Note that if the firefighter dies having reached the tax year in which he/she attains State pensionable age, the provisions of Rule C6 would apply.
- Exclusions** If the surviving spouse or civil partner is entitled to benefits under Rules C1 (ordinary pension), C4 (accrued pension) or C6, 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 C7 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.
- Method of calculation** Rule C7(2)(a) provides a temporary pension for the first 13 weeks following death calculated in line with the principles set out in Rule C6(2)(a) and (3), and Rule C7(2)(b) provides a lump sum equivalent to the firefighters' average pensionable pay.
- The temporary pension is, therefore, assessed as  $A - B$  where:
- A is the 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.
- The average pensionable pay payable as a lump sum would be assessed as explained in Rule G1, normally an average of the pensionable pay received over the last 365 days of service.

**Award to spouse or civil partner where no other award payable****Rule C7 (continued)**

- Tax** The lump sum payment under Rule C7(2)(b) will be a defined benefits lump sum death benefit and must be paid within 2 years of the date of the firefighters' death. If it is not, it will become an unauthorised payment.
- (It would automatically satisfy another requirement of the tax rules, i.e. that it should be paid before the scheme member dies before reaching their 75th birthday, because Rule C7 would apply only where the firefighter has not reached State pensionable age.)
- The payment can be tax free provided it is less than the scheme member's available lifetime allowance (remember that any lump death grant under Rule E1 would also have to be taken into account when testing against the lifetime allowance, together with any benefits which may have been paid to the member). If the payment is more than the available lifetime allowance, the excess is a chargeable amount subject to a lifetime allowance charge at the rate of 55%. The charge falls on the recipient of the payment.
- Payment** Payment will be made in accordance with Rules L3 and L5.
- Example** Examples of the assessment of a spouse's or civil partner's award under this rule are given on pages C7-Example 1.
- Useful reference source**
- 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. 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.
3. 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.
4. Payment of a spouse's or civil partner's temporary 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.

**Award to spouse or civil partner where no other award payable****Rule C7 (continued)****Points To Note continued**

5. 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.
6. 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 an ordinary pension. See Annexe 14 for more information about the effect of divorce, etc. on pension rights.
7. Pension provisions for part-time regular firefighters were introduced on 13 September 2004. The temporary pension and the lump sum will reflect part-time pensionable pay if the firefighter held a part-time contract at the date of death.
8. 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 require 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 were equalized for all pension schemes. In the case of Rule C7 benefits, however, neither the temporary pension nor the lump sum payment are calculated on length of service and so there would not be any difference in treatment.

## RULE C7

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#### Example of assessment of award to spouse or civil partner where no other award payable

##### Example A

*A married male firefighter dies in service – not as a result of a qualifying injury – at age 64, before the tax year in which he would attain age 65 (State pensionable age). At the date of death he has less than 2 years' pensionable service, his pensionable pay is £24,000 and his average pensionable pay is £22,000. No children's benefits are payable.*

Formula: 13 weeks x pensionable pay

and

a lump sum equal to average pensionable pay

Spouse's award will be:

13 weeks x £24,000 a year

plus

a lump sum of £22,000

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##### Example B

*A female firefighter who has a civil partner dies in service – not as a result of a qualifying injury – at age 55. At the date of death she has less than 2 years' pensionable service – all worked at half-time. Her pensionable pay is £13,000 and her average pensionable pay is £11,750. No children's benefits are payable.*

Formula: 13 weeks x pensionable pay

and

a lump sum equal to average pensionable pay

Civil partner's award will be:

13 weeks x £13,000 a year

plus

a lump sum of £11,750

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