

RULE E4

Payment of balance of contributions to estate

Rule E4 explains how a balance of contributions is made to the estate of a firefighter or former firefighter where the value of total of awards paid out of the FPS is less than aggregate pension contributions.

Qualification for balance of contributions to estate

Rule E4(1) applies this Rule where a person dies –

- while serving as a regular firefighter, or
- while entitled to a deferred pension, or
- while receiving an ordinary, short service or ill-health pension.

If the aggregate of “relevant amounts” is less than the amount of the person’s aggregate pension contributions then the balance is to be paid to the deceased’s personal representatives.

“Aggregate pension contributions” are explained in Rule A8.

Meaning of “relevant amounts”

If the person died while in receipt of an ordinary, short service or ill-health pension, or while entitled to a deferred pension, the relevant amounts are –

- the sums paid in respect of that pension
- if the person was receiving an ill-health and injury pension – any sums paid by way of injury pension and injury gratuity (under Rule B4 before 1 April 2006 or under the Firefighters' Compensation Scheme on and after 1 April 2006)
- if the pension was commuted to provide a lump sum under Rule B7– the amount of lump sum
- if the pension was reduced for allocation under Rule B9 – the sums otherwise payable in respect of the allocated portion
- any gratuity/lump sum payable in respect of the death
- the actuarial value of any surviving spouse’s or civil partner’s and child’s pension paid in respect of the death
- if the person was a pension debit member*, the actuarial value of any pension credit member’s pension derived from the deceased’s pension rights.

If the firefighter died in service, the relevant amounts are –

- any gratuity/lump sum payable in respect of the death (but not the death grant under Rule E1), and
- the actuarial value of any surviving spouse’s or civil partner’s and child’s pension paid in respect of the death
- if the person was a pension debit member*, the actuarial value of any pension credit member’s pension derived from the deceased’s pension rights.

*a pension debit member is a firefighter who has had pension rights reduced under a pension sharing order issued by a court on divorce, dissolution of civil partnership or annulment.

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Rule E4 (continued)

Tax Before 6 April 2006, if all or part of the aggregate contributions were paid to the personal representatives following the firefighter's death, Inland Revenue guidance was that tax was not deductible under Section 598 of the Income and Corporation Taxes Act 1988 (see Rule B11 as worded before 6.4.2006) because the refund was not made during the employee's lifetime [see Inland Revenue PSI manual: PSI 11.2.15].

From 6 April 2006 – the date of the introduction of the new tax regime for pension schemes – HM Revenue and Customs (HMRC) confirmed that the payment of balance of contributions under Rule E4 would be considered a defined benefits lump sum death benefit (Section 168(1)(a) of the Finance Act 2004). The requirements of the Finance Act are that such a lump sum –

- cannot be paid if the firefighter had attained age 75 at the date of death, and
- must be paid within 2 years of:
 - the day on which the scheme administrators become aware of the death, or
 - the day on which the scheme administrators could reasonably have been expected to know of the death.

A lump sum death benefit has to be checked against the Lifetime Allowance. If it is within the Lifetime Allowance it will be tax-free. If it exceeds the Lifetime Allowance the excess will be subject to a tax charge of 55%. The fire and rescue authority does not have responsibility for checking or deducting and paying over the tax to HMRC. It is the responsibility of the personal representatives of the deceased to check whether there is a chargeable amount and, if so, to report this to HMRC. Responsibility for paying the charge rests with the recipient of the lump sum death benefit. Consequently, the fire and rescue authority will make the payment in full. They must also tell the personal representatives –

- the amount of the lump sum death benefit and the date on which it was paid, and
- the percentage of the Lifetime Allowance that the death grant represents.

These details must be issued by the authority within 3 months of the date of payment of the lump sum.

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

Useful reference source • FPSC 5/2008: factors and guidance supplied by Government Actuary for calculating lump sum on commutation (Rule B7), trivial commutation lump sum (Rule B8), trivial commutation lump sum for surviving spouse (Rule E5), and capitalisation of benefits for payment of balance of contributions to estate (Rule E4).

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Rule E4 (continued)

Points To Note

1. This Rule is most likely to apply where a firefighter has received little or no pension payments him or herself at the date of death and leaves no dependants. It ensures that payments at least equal to your aggregate pension contributions, less any payments made or due to be made, are returned to your estate. The payment of death grant under Rule E1 is ignored for this purpose.
2. Payment would be made to your personal representatives as named in Grant of Probate or Letters of Administration (England and Wales) or Confirmation (Scotland). If however the sum due is less than the limit referred to in the Administration of Estates (Small Payments) Act 1965, it can be paid to whichever person or persons the fire and rescue authority determine (see Rule L5(3)).
3. Until 19 May 2008, the actuarial value of the spouse's or civil partner's pension, child's allowance and any pension credit member's pension in an individual case would be assessed by the Government Actuary's Department (GAD) at the request of the fire and rescue authority. On 19 May 2008, GAD issued "simple rule of thumb" guidance to determine whether or not actuarial help would be needed in assessing the capital value of benefits and more detailed guidance on the capitalisation of a spouse's or civil partner's benefits if that person had attained state pensionable age. This guidance was attached to FPSC 5/2008 and the relevant details – and actuarial factors – are given on pages Rule E4 – Supplementary 1.

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Supplementary 1: GAD guidance on capitalisation of survivor pension for payment of balance of contributions to estate

The following is contained in GAD guidance issued on 19 May 2008.

Capitalisation factors for death gratuities

Rule E4 of the FPS provides for a return of the firefighter's aggregate pension contributions on death, less any payments made or due to the firefighter on account of their pension and the capitalised value of any pension or allowance granted in respect of the firefighter's death. This guidance relates to the determination of the capitalised value of the long-term survivor's pension. Any short-term increase in the level of survivor's pension under Rule E8 must be brought into account in addition to the capitalised value of the long-term pension.

Adult survivor pensions

The capitalised value can be determined in cases where both of the following criteria are met –

- the surviving spouse or civil partner has attained State Pension Age; and
- the scheme administrator has not received a notification from the National Insurance Contributions Office that the pension scheme should pay full pension increases on the Guaranteed Minimum Pension (GMP) element of the pension, as well as the excess over GMP.

In those cases the capitalised value can be calculated as follows:

$$\text{PREGMP} \times F_{\text{pre}} + \text{POSTGMP} \times F_{\text{post}} + \text{EXCESS} \times F_{\text{excess}}$$

where

PREGMP	=	annual GMP in payment accrued before 6.4.88
POSTGMP	=	annual GMP in payment accrued from 6.4.88
EXCESS	=	annual pension in payment in excess of GMP
F_{pre}	=	factor for pre-88 GMP – see table at end
F_{post}	=	factor for post-88 GMP – see table at end
F_{excess}	=	factor for pension in excess of GMP – see table at end

For other cases where the surviving spouse or civil partner has not yet attained their State Pension Age, a simple rule of thumb can be used to determine whether or not more detailed consideration is required. The rule of thumb is that for individuals below State Pension Age, the capitalised value of the pension will always exceed the pension in payment multiplied by 11.9. Therefore, where the surviving spouse or partner's pension in payment multiplied by 11.9 exceeds the member's aggregate pension contributions, it is safe to conclude that the capitalised value of the survivor's pension exceeds the member's aggregate contributions.

If neither the capitalisation formula nor the rule of thumb principle shown above can be used, the case should be referred to the Firefighters' Pension Team at the Department for forward transmission to GAD.

Children's pensions

This guidance does not cover the capitalised value of children's pensions under Rule E6 of the FPS. Such a case must be referred to the Firefighters' Pension Team at the Department for forward transmission to GAD.

(June 2008)

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Supplementary 1: Examples of GAD guidance on capitalisation of survivor pension for payment of balance of contributions to estate

Example A

Capitalisation for payment of balance of contributions to estate – calculation based on GAD formula

A female former firefighter dies before her deferred pension is due to come into payment. The pension due to her widower – who is aged 76 – is £4,000 a year. In the case of a widower, there is no pre-88 GMP but his post-88 GMP is £500 a year. (The "excess" pension figure, therefore, is £3,500.) There is no short-term increase in the widower's pension under Rule E8. The former firefighter's aggregate pension contributions are £40,000.

Formula:

$$\text{PREGMP} \times F_{\text{pre}} + \text{POSTGMP} \times F_{\text{post}} + \text{EXCESS} \times F_{\text{excess}}$$

where

- PREGMP = n/a (annual GMP in payment accrued before 6.4.88)
- POSTGMP = £500 (annual GMP in payment accrued from 6.4.88)
- EXCESS = £3,500 (annual pension in payment in excess of GMP)

- F_{pre} = n/a (factor for pre-88 GMP – see table on next page)
- F_{post} = 7.8 (factor for post-88 GMP – see table on next page)
- F_{excess} = 8.3 (factor for pension in excess of GMP – see table on next page)

$$\begin{aligned} \text{Capitalised value} &= \text{POSTGMP} \times F_{\text{post}} + \text{EXCESS} \times F_{\text{excess}} \\ &= (£500 \times 7.8) + (£3,500 \times 8.3) \\ &= £3,900 + £29,050 \\ &= \mathbf{£32,950} \end{aligned}$$

Aggregate contributions less capitalised value: £40,000 - £32,950 = **£7,050**

Example B

Capitalisation for payment of balance of contributions to estate – rule-of-thumb principle

A male former firefighter dies leaving a widow aged 47. Her long-term pension entitlement is £2,000 a year (which might include some GMP). The former firefighter's aggregate pension contributions are £18,000.

The widow has not reached State Pension Age and so the formula method illustrated in Example A cannot be used, but the rule-of-thumb can.

$$\begin{aligned} \text{Rule-of-thumb calculation} &= £2,000 \times 11.9 \\ &= \mathbf{£23,800} \end{aligned}$$

This gives a higher value than the total of the former firefighter's contributions (£18,000).

Therefore, it is safe to conclude that the capitalised value of benefits exceeds the aggregate pension contributions paid by the firefighter. There is no balance to be paid to the estate of the former firefighter.

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Supplementary 1: GAD factors for capitalisation of survivor pension for determination of payment of balance of contributions to estate

Age in completed years	Widow or female civil partner			Widower or male civil partner		
	Pre-88 GMP	Post-88 GMP	Excess over GMP	Pre-88 GMP	Post-88 GMP	Excess over GMP
60	11.9	14.4	15.8	n/a	n/a	n/a
61	11.7	14.1	15.4			
62	11.5	13.8	15.0			
63	11.3	13.5	14.6			
64	11.1	13.2	14.2			
65	10.9	12.9	13.8		12.9	13.8
66	10.8	12.6	13.5		12.2	13.2
67	10.6	12.4	13.3		11.6	12.6
68	10.4	12.2	13.1		11.1	12.0
69	10.2	11.9	12.8		10.6	11.5
70	9.9	11.5	12.5		10.2	11.0
71	9.6	11.2	12.1		9.8	10.5
72	9.3	10.8	11.7		9.4	10.1
73	9.0	10.4	11.2		9.0	9.6
74	8.7	10.0	10.8		8.6	9.2
75	8.5	9.7	10.4		8.2	8.7
76	8.2	9.3	9.9		7.8	8.3
77	7.9	8.9	9.5		7.5	7.9
78	7.6	8.5	9.1		7.1	7.5
79	7.3	8.2	8.7		6.7	7.1
80	7.0	7.8	8.3	6.4	6.7	
81	6.7	7.5	7.9	6.1	6.4	
82	6.5	7.2	7.6	5.8	6.0	
83	6.2	6.8	7.2	5.5	5.7	
84	5.9	6.5	6.8	5.2	5.4	
85	5.7	6.2	6.5	4.9	5.1	
86	5.4	5.9	6.2	4.6	4.8	
87	5.2	5.6	5.9	4.3	4.5	
88	4.9	5.3	5.6	4.1	4.3	
89	4.7	5.1	5.3	3.9	4.0	
90	4.5	4.8	5.0	3.7	3.8	
91	4.3	4.6	4.8	3.5	3.6	
92	4.1	4.3	4.5	3.3	3.4	
93	3.9	4.1	4.3	3.1	3.2	
94	3.7	3.9	4.1	3.0	3.1	
95	3.5	3.7	3.9	2.8	2.9	
96	3.4	3.6	3.7	2.7	2.8	
97	3.2	3.4	3.5	2.6	2.6	
98	3.1	3.2	3.3	2.5	2.5	
99	2.9	3.0	3.1	2.4	2.4	