

RULE J3

Employee of a fire and rescue authority who is not a regular firefighter

Rule J3 explains the discretionary power of a fire and rescue authority to make an award to an employee who is not a regular firefighter but who is injured while in attendance at a fire.

This Rule was removed from the FPS with effect from 1 April 2006 when the Firefighters' Compensation Scheme was introduced.

The explanation of Rule J3 as it applied up to 31 March 2006 appears on the following pages as "archived" material.

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Eligibility for award

Rules J3(1) and (2) state that if

- you are a whole-time or part-time employee of a fire and rescue authority but not a regular firefighter, and
- you suffer a qualifying injury without your own default while in attendance at a fire and in the execution of your duties as an employee of the authority, and
- you retire because of the injury

your fire and rescue authority may pay such pension or gratuity as they think fit (subject to certain limits).

If, you were to die from the effects of the injury, either before or after retiring, the fire and rescue authority may pay

- such pension and gratuity as they think fit (subject to certain limits) to your surviving spouse or civil partner
- such allowance as they think fit (subject to certain limits) to any eligible children.

Personal award

The award, which is at the discretion of your fire and rescue authority, may consist of a pension and a gratuity.

When added to any relevant additional benefit (see below) your award must not exceed the injury pension and gratuity you would have received under Rule B4, if you were-

- a regular firefighter employed in the role of firefighter, and
- retired on account of a qualifying injury during your first year of service

but ignoring any reduction to the pension in respect of any other pension under the FPS as required by Schedule 2 Part V, paragraph 2).

Widow(er)'s or civil partner's award

The award, which is at the discretion of your fire and rescue authority, may consist of a pension and a gratuity.

When added to any relevant additional benefit (see below) the award must not exceed the special pension and gratuity he or she would have received under Rule C2, if you –

- were a regular firefighter employed in the role of firefighter, and
- died from the effect of a qualifying injury during your first year of service.

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Rule J3 (continued)

Children's award The award, which is at the discretion of your fire and rescue authority, may consist of a pension.

When added to any relevant additional benefit (see below) the award must not exceed the special allowance the child would have received under Rule D2, if you –

- were a regular firefighter employed in the role of firefighter, and
- died from the effect of a qualifying injury during your first year of service.

"Relevant additional benefits" *"relevant additional benefits" are any other payments - periodical payments in the case of a pension, lump sum payments in the case of a gratuity - paid to you by the fire and rescue authority, any other local authority, or a Minister of the Crown (other than DWP benefits).

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

- Useful reference source**
- FSC 30/2004: extension of this provision to part-time employees and the removal of restrictions on payment of awards to children of female employees
 - FPSC 5/2005: introduction of survivor's benefits for civil partners

Points To Note

1. Rule J5 is relevant to the above awards. It applies the interpretation of expressions contained in Part A (e.g. the meaning of qualifying injury) and explains that Part H (determination of questions and appeals) Rule K5 (forfeiture) and Part L (payment of awards and financial provisions) all apply.
2. Awards to the children of female employees were once paid only at the discretion of the fire authority and were subject to proof of the child's dependency. The FPS was amended to remove this requirement with effect from 13 September 2004.
3. 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:

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