> **Rule B3 sets out the terms of eligibility for an ill-health award.**
> **Schedule 2 Part III explains how an ill-health pension should be calculated.**
> **Schedule 2 Part VIA explains adjustments for part-time service.**

Eligibility for an ill-health pension

Rule B3(1) and (2) explains that in order to be entitled to immediate payment of an ill-health pension you must –

- be a regular firefighter,
- be required to retire on grounds of disablement under Rule A15, and
- be entitled to reckon at least 2 years' pensionable service or, with less, be entitled to an award under the Firefighters' Compensation Scheme.

Eligibility for a short service lump sum

If you are a regular firefighter required to retire on grounds of disablement under Rule A15, but –

- you have **less** than 2 years' pensionable service, and
- your infirmity was **not** occasioned by a qualifying injury

then instead of a pension, Rule B3(6) gives you entitlement to a short service lump sum based on your aggregate pension contributions.

Exclusions

Even if you satisfy the above conditions for either a pension or a short service lump sum, Rule B3(1) prevents payment of an ill-health award if you have elected to opt out of the Scheme and that election still has effect.

Level of ill-health award/pension

Since 1 April 2006, an ill-health award can be lower tier or higher tier.

A person with 2 or more years' pensionable service who is retired by their authority under Rule A15 on the grounds that they are permanently disabled, because of infirmity of mind or body, for the performance of the duties of their role, will be entitled to a lower tier award, i.e. a lower tier ill-health pension.

If that person is not only disabled for the performance of the duties of their role, but also incapable of undertaking any other regular employment they will be entitled to a higher tier award. They would receive a lower tier <u>and</u> a higher tier ill-health pension.

Rule B3(7) explains that "regular employment" means employment for at least 30 hours a week on average over a period of not less than 12 consecutive months, if that period were to start on the date the issue of capacity for employment arises. Rule B3(3) and (4) require an independent qualified medical practitioner to provide an opinion of capability.

Method of calculation of ill-health pensions

A lower tier ill-health pension is calculated by using the method given in Schedule 2 Part III, paragraph 2 (5 or more years' pensionable service) or paragraph 3 (less than 5 years' pensionable service). A higher tier ill-health pension is calculated by using the method given in Schedule 2 Part III, paragraph 4.

Rule B3 (continued)

Method of calculation of ill-health pensions (continued)

Lower tier ill-health pension

If you have 5 or more years' service the lower tier ill-health pension is calculated in the same way as a deferred pension (see Rule B5).

The basic formula for a deferred pension is –

the lesser of: $\dfrac{40 \times A}{60}$ and $\dfrac{B \times C}{D}$

where -

A is your average pensionable pay

B is your notional retirement pension (see below)

C is the period in years (and days) of your pensionable service

D is the period in years (and days) of your notional service (see below).

Your "notional service" is the period in years and days that you would be able to count if you continued to serve as a firefighter until the earlier of -

- when you could retire with a maximum ordinary pension (disregarding the "age 55" requirement for Chief Fire Officers and Firemasters) - see the explanation of Rule B1, and

- normal pension age (55) or, in the case of Station Manager B or above, age 60. (The use of age 60 for this role is a protected right offered by Rule B5(3A) which was added when "normal pension age" replaced "compulsory retirement age" in the FPS. Firefighters of the rank Assistant Divisional Officer or above had a compulsory retirement age of 60. In some circumstances this may offer a higher level of deferred pension than that allowed by age 55. Consequently Rule B5(3A) is a protected right for those who have the role of Station Manager B or above, being the closest equivalent to the rank of Assistant Divisional Officer or above.)

Your "notional retirement pension" is -

$$\frac{A \times E}{60} + \frac{2 \times A \times F}{60}$$

where -

A is your average pensionable pay

E is the period in years (and days) of your notional service up to 20 years, and

F is the period in years (and days) by which your notional service exceeds 20 years.

If you have less than 5 years' service, the formula used is –

$$\frac{(A \times B)}{60}$$

where -

A is your average pensionable pay

B is the greater of one year and the period in years of your pensionable service.

Rule B3 (continued)

Method of calculation of ill-health pensions (continued)

Higher tier ill-health pension

The higher tier ill-health pension is the difference between an "enhanced" pension and the lower tier ill-health pension assessed on the principles shown above. The "enhancement" is the addition of a period of service according to how much pensionable service the firefighter has accrued at retirement.

If you have completed less than 5 years' pensionable service there is no addition of service. Consequently the higher tier ill-health pension would be the same as the lower tier pension in these circumstances.

If you have at least 5, but not more than 10 years' pensionable service, the higher tier ill-health pension is assessed as –

$$\frac{2 \times A \times C}{60}$$

where –

A   is your average pensionable pay

C   is the period of your pensionable service in years (and days)

If you have more than 10 years' pensionable service, the higher tier ill-health pension will be the greater of the amounts produced by –

$$\frac{20 \times A}{60}$$

or

$$\frac{7 \times A}{60} + \frac{A \times D}{60} + \frac{2 \times A \times E}{60}$$

where –

A   is your average pensionable pay

D   is the period in years (and days) of your pensionable service up to 20 years

E   is the period in years (and days) by which your pensionable service exceeds 20 years

The pension derived from whichever basic formula applies to you must never be more than the ordinary pension (Rule C1) or short service pension (Rule C2) which you would have received at normal pension age, or at age 60 if you hold the rank of Station Manager B or above (see below for an explanation of the use of age 60) using the same average pensionable pay. Your retirement pension under Rules C1 and C2 cannot be based on more than 40/60ths of average pensionable pay and so this imposes a limit on the "enhancement" of your ill-health pension.

Rule B3 (continued)

Method of calculation of ill-health pensions(continued)

The formulae for assessing the enhanced pension can be simplified according to length of service as follows:

5 or more years, but less than 10	⇨	each year will reckon as 2/60 x APP
10 or more years, but less than 13	⇨	the formula is 20/60 x APP
13 or more years	⇨	the formula is service*/60 + 7/60 x APP

*each year of service to 20 years = 1/60th; each year of service after 20 years = 2/60ths

- each excess day counts as 1/365 of a year (even in a leap year)
- "APP" means average pensionable pay
- the pension must not be greater than it would have been at compulsory retirement age

Having worked out the enhanced pension, from this is deducted the lower tier pension. The result is your higher tier pension. For example, if your enhanced pension was assessed as £24,000 a year and your lower-tier pension was £18,000 a year, then your ill-health pension entitlement would be –

Lower tier ill-health pension:	£18,000 a year
Higher tier ill-health pension:	£ 6,000 a year
Total pensions payable:	£24,000 a year

Protected right for persons having role of Station Manager B

The normal pension age of 55 was introduced into the FPS (Rule A13) with effect from 21 November 2005. Before that date there was a "compulsory retirement age" of –

55 for all ranks up to and including Station Officer

60 for all ranks Assistant Divisional Officer and above

and one of the limits on the pension derived from the (enhanced) ill-health formula was that it should not be more than the ordinary pension or short service pension which would have been received at compulsory retirement age. Removing the compulsory retirement age from the FPS and replacing it with a normal pension age of 55 could have been detrimental when working out the ill-health pension for someone holding the rank Assistant Divisional Officer or above, or the equivalent role of Station Manager B or above. Consequently a special provision was added with effect from 21 November 2005 to allow age 60 to be the "limiting age" in such a case. It continues to apply for assessing deferred pensions (as for the lower tier ill-health pension) and for enhanced ill-health pensions (as for the higher tier ill-health pension).

Effect of part-time service on calculation of ill-health pensions

To assess entitlement to, and the amount of, an ill-health pension for a regular firefighter who has had a period of part-time service, you must take account of Rule A7(4) (the reckoning of service for the purposes of awards) and to Rule B13 which directs you to look at Schedule 2 Part VIA.

Rule A7(4) says that any period of part-time service should be treated as whole-time service for the purposes of assessing pensionable service.

Rule B3 (continued)

Effect of part-time service on calculation of ill-health pensions (continued)

This principle would be applied when determining if you have the 2 years' pensionable service needed to qualify for an ill-health pension (where an award under the Compensation Scheme does not give entitlement regardless of length of service). For example if you had served as a regular firefighter for one year at whole-time, and one year at half-time, Rule A7(4) allows you to count 2 years of pensionable service. Consequently you would meet the service requirement for an ill-health pension.

The ill-health "enhancement" also relates to pensionable service. For example if you had worked for 12 years, all at half-time, this would count as 12 years' pensionable service and so the principle of "enhancement" would allow 20/60ths to be used in the calculation of the pension.

Part VIA of Schedule 2 requires that, at the first stage of the pension assessment, the average pensionable pay should be the average pensionable pay you would have received had you been a whole-time employee of a fire and rescue authority. To all intents and purposes, therefore, the first stage of the pension calculation (both lower tier and higher tier) treats you as if you had been a whole-time regular firefighter throughout your service.   "Method of calculation" above tells you how this is done.

The second stage of the calculation applies a "pro rata" principle to the pension calculated at the first stage. This is set out in detail in the explanation of Rule B13 (and Schedule 2 Part VIA). Basically, the whole-time pension is multiplied by the total of your whole-time and part-time service (treated pro rata) divided by the whole-time equivalent. This gives an equitable portion of the whole-time pension.

Adjustments to ill-health pension

The pension derived from the basic formula taking account of any adjustment under Schedule 2 Part VIA may be subject to the following adjustments –

- a reduction for commutation (see the explanation of Rule B7)

- a reduction for allocation (see the explanation of Rule B9)

- a reduction for an election to uprate widow's and children's benefits – generally firefighters with service before 1 April 1972 and so not likely to affect anyone currently serving (see pages B Gen 1)

- a reduction for National Insurance modification – generally firefighters with service before 1 April 1980 (see pages B Gen 2)

- a reduction in case of default (see "Points to Note", Point 7).

- an addition for Pensions Increase (see Annexe 10)

- a reduction in respect of a pension sharing order on divorce, dissolution of civil partnership, or annulment (see Rule B12 and Annexe 14).

Rule B3 (continued)

Method of calculation of short service lump sum

The short service lump sum is, in effect, a repayment of your aggregate pension contributions as explained in Rule B6. It is treated as a short service refund lump sum for tax purposes. Rule B11 allows the fire and rescue authority to deduct the tax charge from the payment.

"Aggregate pension contributions" is explained in Rule A8.

Tax

Benefits payable under a pension scheme have to be tested against the "Standard Lifetime Allowance" ("SLA") under tax rules introduced by HM Revenue and Customs ("HMRC") on 6 April 2006. It is the total value of your pension savings, not just those accrued as a member of the FPS, that must be tested against the SLA. The SLA for the tax year 2006/07 is £1,500,000. Your pensions administrator can advise you of the SLA level in the tax year in which your benefits become payable.

If you were to retire during 2006/07, therefore, your pensions administrator would ask you to declare any other pension benefits in payment and would compare these, plus the benefits due under the FPS, with the SLA of £1,500,000. If the value of benefits exceeds this amount you would still be eligible to receive the excess but it would be taxed. The tax is called a "lifetime allowance tax charge". There are two different rates of lifetime allowance tax charge. The charge on the excess value taken as a lump sum is 55% and 25% is the charge on any excess value taken as a pension (in addition to any standard Pay As You Earn tax deductions made from instalments of pension). The lifetime allowance tax charge is paid to HMRC by the pension scheme administrator and recovered from the scheme member by a reduction applied to the benefits (as allowed by Rule B11).

To value your FPS benefits the annual pension is multiplied by 20 and then the lump sum by commutation is added. For example, if you are entitled to a pension of £20,000 and choose not to commute,

£20,000 x 20 = £400,000.00

If you commute a quarter to provide a pension of, say £15,000 and lump sum of £75,000, your FPS benefits would be valued as –

(£15,000 x 20) + £75,000 = £375,000.00

As you can see this is considerably less than the SLA and so, unless you had a considerable amount of benefits in pension arrangements other than the FPS your benefits would not be subject to the lifetime allowance tax charge.

Rule B3 (continued)

Tax (continued)   If you were a higher earner who claimed Primary Protection or Enhanced Protection when the new tax rules were introduced you should give to your pensions administrator at the time benefits become due a copy of any certification supplied by HMRC which confirms the protection.

Payment   Payment of the pension will normally commence from the day you retire. It will be made in accordance with Rules L3 and L5.

Payment of the short service lump sum will be made as soon as possible after you retire.

Example   Examples of the calculation of an ill-health pension are given on pages B3-Example 1.

Examples of the calculation of a short service lump sum (i.e. a repayment of aggregate contributions) are given on pages B6-Example 1.

Archived pages   The two-tier ill-health arrangements were introduced with effect from 1 April 2006 for anyone in respect of whom a determination or decision relevant to the termination of employment on grounds of ill-health was made on or after that date. The earlier provisions remain in effect for those for whom such a determination or decision was made before 1 April 2006. In case reference has to be made to these earlier provisions, the previous explanation of Rule B3 follows these pages as "archived" material.

Useful reference source
- FSC 30/2004: introduction of pension provisions for part-time regular firefighters
- FPSC 4/2005: explains replacement of compulsory retirement age with normal pension age (but protection for ill-health enhancement for those holding the role of Station Manager B and above)
- FPSC 9/2006: explains the introduction of two-tier ill-health awards

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Points To Note

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1. You are "disabled" if you are unable to carry out your duties because of infirmity of mind or body – see the explanation in Rule A10.

2. You are permanently disabled if, at the time the question of your disablement arises, it is considered likely that it will be permanent, i.e. that the disablement will continue to normal pension age (55). This depends upon the medical evidence available at the time – see the explanation in Rule A10.

Rule B3 (continued)

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3. If your disablement was caused by a qualifying injury you would also be eligible to be considered for an injury award under the Firefighters' Compensation Scheme.

4. Entitlement to an award is decided in the first place by your fire and rescue authority. Before making their decision they must obtain the opinion of an independent qualified medical practitioner selected by them (see the explanation in Rule H1).

5. If you are dissatisfied with an award based on a medical opinion and believe the problem lies in the opinion, you have a right of appeal to a Regional Board of Medical Referees – see the explanation in Rule H2. If your dissatisfaction is in respect of non-medical matters you have a right of appeal to Crown Court – see the explanation in Rule H3.

6. You will not be eligible for an ill-health award if you retire on some other ground and later find you are permanently disabled, even if it is clear that you were so disabled when you left. This is because an ill-health pension is meant to compensate you for having to retire for medical reasons when you would not otherwise have done so.

7. If you are permanently disabled but have brought about or contributed to your infirmity by your own default, the fire and rescue authority may reduce any ill-health award payable to you by up to 50% - see the explanation in Rule K3.

8. Your fire and rescue authority may check from time to time to see if you are still disabled and the level of your disability. See the explanation in Rules K1 and K1A for the terms and effect of this type of review.

9. If an "earmarking" order has been issued by a court on divorce, dissolution of a civil partnership, annulment, or judicial separation (see Annexe 14) the pension or lump sum by commutation (see Rule B7) may need to be reduced in accordance with the order.

10. Pension provisions for part-time regular firefighters were introduced on 13 September 2004.

11. The higher tier award is made up of two separate elements – the lower tier pension and the higher tier pension – to comply with the tax regime introduced on 6 April 2006. It means that if the higher tier ill-health pension has to cease on review because the former firefighter is considered to have recovered sufficiently to undertake regular employment but not that relating to the duties of his/her former role (see Rules K1 and K1A), the lower tier ill-health pension could remain in payment even though the higher tier ill-health pension would cease.

12. The protection of age 60 as retirement age (for the purpose of assessing an ill-health pension) for those in the role of Station Manager B or above was originally contained in Rule B3(3). When Rule B3 was replaced with effect from 1 April 2006 this protection was moved to paragraph 1(2) of Schedule 2 Part III.

Example of assessment of ill-health pension

Example A

A firefighter retires with entitlement to a lower tier ill-health award at age 28. At the date he leaves he has 3 years 51 days of service and his average pensionable pay (APP) is £26,212.00.

Formula: A lower tier pension is assessed as if a deferred pension –

$$\frac{\text{actual pensionable service}}{\substack{\text{notional service to normal pension age (55)} \\ \text{to a maximum of 30 years' service}}} \quad x \quad \substack{\text{notional pension at normal pension age} \\ \text{(55) based on average pensionable pay at} \\ \text{date of leaving}}$$

The firefighter would have been able to complete more than 30 years service by age 55 and so the notional service on which the pension is assessed is limited to 30 years.

Firefighter's lower tier ill-health pension will be:

$$\frac{3\ 51/365}{30} \quad x \quad \frac{40}{60} \quad x \quad £26,212.00$$

= £1,828.86 a year

Note that because he has less than 5 years' pensionable service, he would receive the same amount of pension even if entitled to the higher tier award.

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Note: Pensions as calculated above may be subject to reductions for –
- Commutation – see Rule B7 (this would apply to a lower tier ill-health pension only)
- Allocation – see Rule B9
- Widow's pension uprating (where service before 1.4.1972) – see pages B Gen 1
- National Insurance modification (where service before 1.4.1980) – see pages B Gen 2
- Pension sharing orders on divorce/dissolution of civil partnership: see Rule B12 and Annexe 14

More examples follow . . .

Example of assessment of ill-health pension (continued)

Example B

A firefighter retires with entitlement to a higher tier ill-health award at age 30. At the date he leaves he has 7 years 68 days of service and his average pensionable pay (APP) is £26,400.

Firstly, a lower tier ill-health pension is assessed.

Formula: A lower tier pension is assessed as if a deferred pension –

$$\frac{\text{actual pensionable service}}{\substack{\text{notional service to normal pension age (55)} \\ \text{to a maximum of 30 years' service}}} \quad x \quad \substack{\text{notional pension at normal pension age} \\ \text{(55) based on average pensionable pay at} \\ \text{date of leaving}}$$

The firefighter would have been able to complete more than 30 years' service by age 55 and so the notional service on which the pension is assessed is limited to 30 years.

Firefighter's lower tier ill-health pension will be:

$$\frac{7 \; 68/365}{30} \quad x \quad \frac{40}{60} \quad x \quad £26,400.00$$

= £4,215.96 a year

Secondly, a higher tier ill-health pension is assessed.

Formula: Because he has at least 5 but less than 10 years of service, the formula is –

$$\left(\frac{2 \; x \; \text{service}}{60} \; x \; \text{APP}\right) \; \text{less} \; \text{lower tier ill-health pension}$$

Firefighter's ill-health pension will be:

$$\left(\frac{2 \; x \; 7 \; 68/365}{60} \; x \; £26,400.00\right) \; - \; £4,215.96$$

= £2,107.98 a year

This means that he will be paid:

Lower tier ill-health pension	£4,215.96
Higher tier ill-health pension	£2,107.98
Total	£6,323.94 a year

Note: Pensions as calculated above may be subject to reductions for –
- Commutation – see Rule B7 (this would apply to a lower tier ill-health pension only)
- Allocation – see Rule B9
- Widow's pension uprating (where service before 1.4.1972) – see pages B Gen 1
- National Insurance modification (where service before 1.4.1980) – see pages B Gen 2
- Pension sharing orders on divorce/dissolution of civil partnership: see Rule B12 and Annexe 14

More examples follow . . .

Example of assessment of ill-health pension (continued)

Example C

A firefighter retires with entitlement to a higher tier ill-health award at age 35. At the date she leaves she has 12 years 15 days of service and her average pensionable pay (APP) is £28,400.

Firstly, a lower tier ill-health pension is assessed.

Formula: A lower tier pension is assessed as if a deferred pension –

$$\frac{\text{actual pensionable service}}{\substack{\text{notional service to normal pension age (55)} \\ \text{to a maximum of 30 years' service}}} \quad \text{x} \quad \substack{\text{notional pension at normal pension age} \\ \text{(55) based on average pensionable pay at} \\ \text{date of leaving}}$$

The firefighter would have been able to complete more than 30 years' service by age 55 and so the notional service on which the pension is assessed is limited to 30 years.

Firefighter's lower tier ill-health pension will be:

$$\frac{12 \ 15/365}{30} \text{ x } \frac{40}{60} \text{ x } £28,400.00$$

= £7,599.27 a year

Secondly, a higher tier ill-health pension is assessed.

Formula: Because she has at least 10 but less than 13 years' service, the formula is –

$$\left(\frac{20}{60} \text{ x APP}\right) \text{ less lower tier ill-health pension}$$

Firefighter's ill-health pension will be:

$$\left(\frac{20}{60} \text{ x } £28,400.00\right) - £7,599.27$$

= £1,867.40 a year

This means that she will be paid:

Lower tier ill-health pension	£7,599.27
Higher tier ill-health pension	£1,867.40
Total	£9,466.67 a year

Note: Pensions as calculated above may be subject to reductions for –

- Commutation – see Rule B7 (this would apply to a lower tier ill-health pension only – see Examples E and F on pages B7-Example 2 in respect of the above)
- Allocation – see Rule B9
- Widow's pension uprating (where service before 1.4.1972) – see pages B Gen 1
- National Insurance modification (where service before 1.4.1980) – see pages B Gen 2
- Pension sharing orders on divorce/dissolution of civil partnership: see Rule B12 and Annexe 14

More examples follow . . .

Example of assessment of ill-health pension (continued)

Example D

A firefighter (Station Manager B) retires with entitlement to a higher tier ill-health award at age 46. At the date he leaves he has 24 years of service and his average pensionable pay (APP) is £30,000.

<u>Firstly</u>, a lower tier ill-health pension is assessed.

Formula: A lower tier pension is assessed as if a deferred pension –

$$\frac{\text{actual pensionable service}}{\substack{\text{notional service to normal pension age (55)} \\ \text{to a maximum of 30 years' service}}} \quad \text{x} \quad \substack{\text{notional pension at normal pension age} \\ \text{(55) based on average pensionable pay at} \\ \text{date of leaving}}$$

The firefighter would have been able to complete more than 30 years' service by age 55 and so the notional service on which the pension is assessed is limited to 30 years.

Firefighter's lower tier ill-health pension will be:

$$\frac{24}{30} \text{ x } \frac{40}{60} \text{ x } £30,000.00$$

= £16,000.00 a year

<u>Secondly</u>, a higher tier ill-health pension is assessed.

Formula: Because he has at least 13 years' service, the formula is –

$$(\frac{7}{60} + \frac{\text{service to 20 years}}{60} + \frac{2 \text{ x service in excess of 20 years}}{60} \text{ x APP) } \quad \text{less} \quad \substack{\text{lower tier} \\ \text{ill-health pension}}$$

i.e. his pension is based on the ordinary/short service pension formula but with the addition of 7/60ths. However, when applying this formula, care must be taken to ensure that the resultant pension will not be more than the firefighter would have achieved at age 60 (being Station Manager B) or more than 40/60ths of APP.

In this case, the addition of 7/60ths would not exceed those limits.

Firefighter's ill-health pension will be:

$$(\frac{7}{60} + \frac{20}{60} + \frac{2 \text{ x } 4}{60} \text{ x £30,000) } - £16,000.00$$

= £1,500.00 a year

This means that he will be paid:

Lower tier ill-health pension	£16,000.00
Higher tier ill-health pension	£ 1,500.00
Total	£17,500.00 a year

Note: Pensions as calculated above may be subject to reductions for –

- Commutation – see Rule B7 (this would apply to a lower tier ill-health pension only)
- Allocation – see Rule B9
- Widow's pension uprating (where service before 1.4.1972) – see pages B Gen 1
- National Insurance modification (where service before 1.4.1980) – see pages B Gen 2
- Pension sharing orders on divorce/dissolution of civil partnership: see Rule B12 and Annexe 14

More examples follow . . .

Example of assessment of ill-health pension (continued)

Example E

A firefighter (Station Manager A) retires with entitlement to a higher tier ill-health pension at age 53. At the date he leaves he has 29 years' service and his average pensionable pay (APP) is £32,000

Firstly, a lower tier ill-health pension is assessed.

Formula: A lower tier pension is assessed as if a deferred pension –

$$\frac{\text{actual pensionable service}}{\substack{\text{notional service to normal pension age (55)} \\ \text{to a maximum of 30 years' service}}} \quad \times \quad \substack{\text{notional pension at normal pension age} \\ \text{(55) based on average pensionable pay at} \\ \text{date of leaving}}$$

The firefighter would have been able to complete more than 30 years service by age 55 and so the notional service on which the pension is assessed is limited to 30 years.

Firefighter's lower tier ill-health pension will be:

$$\frac{29}{30} \times \frac{40}{60} \times £32,000.00$$

= £20,622.22 a year

Secondly, a higher tier ill-health pension is assessed.

Formula: Because he has at least 13 years' service, the formula is –

$$\left(\frac{7}{60} + \frac{\text{service to 20 years}}{60} + \frac{2 \times \text{service in excess of 20 years}}{60} \times \text{APP}\right) \text{ less } \substack{\text{lower tier} \\ \text{ill-health pension}}$$

i.e. his pension is based on the ordinary/short service pension formula but with the addition of 7/60ths. However, at age 53 he would accrue only a further 4/60ths of APP by normal pension age (55), and with 29 years' service he already has entitlement to 38/60ths of APP and cannot reckon more than 40/60ths. Consequently, his ill-health "enhancement" must be restricted to the lesser of 7/60ths allowed by the formula, or 4/60ths allowed by normal pension age, or 2/60ths allowed by the 40/60ths maximum.

His ill-health "enhancement", therefore, will be an additional 2/60ths.

Firefighter's higher tier ill-health pension will be:

$$\left(\frac{2}{60} + \frac{20}{60} + \frac{2 \times 9}{60} \times £32,000.00\right) - £20,622.22$$

= £711.11 a year

This means that he will be paid:

Lower tier ill-health pension	£20,622.22
Higher tier ill-health pension	£ 711.11
Total	£21,333.33 a year

Note: Pensions as calculated above may be subject to reductions for –
- Commutation – see Rule B7 (this would apply to a lower tier ill-health pension only)
- Allocation – see Rule B9
- Widow's pension uprating (where service before 1.4.1972) – see pages B Gen 1
- National Insurance modification (where service before 1.4.1980) – see pages B Gen 2
- Pension sharing orders on divorce/dissolution of civil partnership: see Rule B12 and Annexe 14

More examples follow . . .

Example of assessment of ill-health pension (continued)

Example F

Assume the firefighter in Example D worked for 20 years at whole-time and 4 years at part-time (quarter-time). Rule A7(4) allows the 24 years to count in full at the first stage of the assessment. Schedule 2 Part VIA allows the use of the whole-time average pensionable pay. Therefore the starting point for assessing the part-time pension entitlement would be to calculate the lower and upper tier pensions as in Example D, i.e. giving a lower tier ill-health pension of £16,000 a year and a higher tier pension of £1,500 a year.

Assessment of lower tier ill-health pension following formula given in Schedule 2 Part VIA

Formula: $\dfrac{A \times (B + C)}{D}$

where A = £16,000.00
       B = 20
       C = 1
       D = 24

Firefighter's lower tier ill-health pension will be:

$\dfrac{£16,000.00 \times (20 + 1)}{24}$

= £14,000.00 a year

Assessment of higher tier ill-health pension following formula given in Schedule 2 Part VIA

Formula: $\dfrac{A \times (B + C)}{D}$

where A = £1,500.00
       B = 20
       C = 1
       D = 24

Firefighter's higher tier ill-health pension will be:

$\dfrac{£1,500.00 \times (20 + 1)}{24}$

= £1,312.50 a year

This means that he will be paid:

Lower tier ill-health pension	£14,000.00
Higher tier ill-health pension	£ 1,312.50
Total	£15,312.50 a year

Note: Pensions as calculated above may be subject to reductions for –
- Commutation – see Rule B7 (this would apply to a lower tier ill-health pension only)
- Allocation – see Rule B9
- Widow's pension uprating (where service before 1.4.1972) – see pages B Gen 1
- National Insurance modification (where service before 1.4.1980) – see pages B Gen 2
- Pension sharing orders on divorce/dissolution of civil partnership: see Rule B12 and Annexe 14

More examples follow . . .

Example of assessment of ill-health pension (continued)

Example G

Assume the firefighter in Example E worked for 20 years at whole-time and 9 years at part-time (half-time). Rule A7(4) allows the 29 years to count in full at the first stage of the assessment. Schedule 2 Part VIA allows the use of the whole-time average pensionable pay. Therefore the starting point for assessing the part-time pension entitlement would be to calculate the lower and upper tier pensions as in Example E, i.e. giving a lower tier ill-health pension of £20,622.22 a year and a higher tier pension of £711.11 a year.

Assessment of lower tier ill-health pension following formula given in Schedule 2 Part VIA

Formula: $\dfrac{A \times (B + C)}{D}$

where A = £20,622.22
       B = 20
       C = 4.5
       D = 29

Firefighter's ill-health pension will be:

$$\frac{£20,622.22 \times (20 + 4.5)}{29}$$

= £17,422.22 a year

Assessment of higher tier ill-health pension following formula given in Schedule 2 Part VIA

Formula: $\dfrac{A \times (B + C)}{D}$

where A = £711.11
       B = 20
       C = 4.5
       D = 29

Firefighter's ill-health pension will be:

$$\frac{£711.11 \times (20 + 4.5)}{29}$$

=   £600.77 a year

This means that he will be paid:

Lower tier ill-health pension	£17,422.22
Higher tier ill-health pension	£ 600.77
Total	£18,022.99 a year

Note: Pensions as calculated above may be subject to reductions for –
- Commutation – see Rule B7 (this would apply to a lower tier ill-health pension only)
- Allocation – see Rule B9
- Widow's pension uprating (where service before 1.4.1972) – see pages B Gen 1
- National Insurance modification (where service before 1.4.1980) – see pages B Gen 2
- Pension sharing orders on divorce/dissolution of civil partnership: see Rule B12 and Annexe 14

> **Rule B3 sets out the terms of eligibility for an ill-health award.**
> **Schedule 2 Part III explains how an ill-health pension should be calculated.**
> **Schedule 2 Part IV explains how an ill-health gratuity should be calculated.**
> **Schedule 2 Part VIA explains adjustments for part-time service.**

Eligibility for an ill-health pension

Rule B3 explains that in order to be entitled to immediate payment of an ill-health pension you must –

- be a regular firefighter,
- be required to retire on grounds of disablement under Rule A15 (see the explanation of Rule A15 and "Points To Note" below), and
- be entitled to reckon at least 2 years' pensionable service or, with less, have an infirmity which was occasioned by a qualifying injury (see the explanation of Rules A9 and A11 for the meaning of "qualifying injury").

Eligibility for an ill-health gratuity

If you satisfy all the above conditions except you have **less** than 2 years' pensionable service, and your infirmity was **not** occasioned by a qualifying injury then instead of a pension you will be eligible for an ill-health gratuity (i.e. a lump sum payment).

Exclusions

Even if you satisfy the above conditions for either a pension or a gratuity, Rule B3(1) prevents payment of an ill-health award if you have elected to opt out of the Scheme and that election still has effect.

Method of calculation of ill-health pension

Rule B3(2)(a) tells you to calculate an ill-health pension by using the method given in Schedule 2 Part III, having regard to Rule B3(3).

Schedule 2 Part III gives a set of basic formulae for an ill-health pension. The formula to use will depend upon your years of pensionable service –

- if you have less than 5: $\dfrac{A \times B}{60}$

- if you have at least 5, not more than 10: $\dfrac{2 \times A \times C}{60}$

- if you have more than 10: the greater of $\dfrac{20 \times A}{60}$

  or $\dfrac{7 \times A}{60} + \dfrac{A \times D}{60} + \dfrac{2 \times A \times E}{60}$

where –

A   is your average pensionable pay

B   is the greater of one year or the period of your pensionable service in years (and days)

C   is the period of your pensionable service in years (and days)

D   is the period in years (and days) of your pensionable service up to 20 years

E   is the period in years (and days) by which your pensionable service exceeds 20 years

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Rule B3 (continued)

Method of calculation of ill-health pension (continued)

The pension derived from whichever basic formula applies to you must never be more than the ordinary pension (Rule C1) or short service pension (Rule C2) which you would have received at normal pension age, or at age 60 if you hold the rank of Station Manager B or above (see below for an explanation of the use of age 60) using the same average pensionable pay. Your retirement pension under Rules C1 and C2 cannot be based on more than 40/60ths of average pensionable pay and so this imposes a limit on the "enhancement" of your ill-health pension.

The ill-health pension formulae can be simplified according to length of service:

less than one year	⇨ the formula is 1/60 x APP
less than 5 years	⇨ each year will reckon as 1/60 x APP
5 or more years, but less than 10	⇨ each year will reckon as 2/60 x APP
10 or more years, but less than 13	⇨ the formula is 20/60 x APP
13 or more years	⇨ the formula is service*/60 + 7/60 x APP

*each year of service to 20 years = 1/60th; each year of service after 20 years = 2/60ths
- each excess day counts as 1/365 of a year (even in a leap year)
- "APP" means average pensionable pay
- the pension must not be greater than it would have been at compulsory retirement age

Protected right for persons having role of Station Manager B

The normal pension age of 55 was introduced into the FPS (Rule A13) with effect from 21 November 2005. Before that date there was a "compulsory retirement age" of –

55 for all ranks up to and including Station Officer

60 for all ranks Assistant Divisional Officer and above

and one of the limits on the pension derived from the ill-health formula was that it should not be more than the ordinary pension or short service pension which would have been received at compulsory retirement age. Removing the compulsory retirement age from the FPS and replacing it with a normal pension age of 55 could have been detrimental when working out the ill-health pension for someone holding the rank Assistant Divisional Officer or above, or the equivalent role of Station Manager B or above. Consequently, Rule B3(3) was added with effect from 21 November 2005 to allow age 60 to be the "limiting age" in such a case.

Effect of part-time service on calculation of ill-health pension

To assess entitlement to, and the amount of, an ill-health pension for a regular firefighter who has had a period of part-time service, you must take account of Rule A7(4) (the reckoning of service for the purposes of awards) and to Rule B13 which directs you to look at Schedule 2 Part VIA.

Rule A7(4) says that any period of part-time service should be treated as whole-time service for the purposes of assessing pensionable service.

Rule B3 (continued)

Effect of part-time service on calculation of ill-health pension (continued)

This principle would be applied when determining if you have the 2 years' pensionable service needed to qualify for an ill-health pension (where a qualifying injury does not give entitlement regardless of length of service). For example if you had served as a regular firefighter for one year at whole-time, and one year at half-time, Rule A7(4) allows you to count 2 years of pensionable service. Consequently you would meet the service requirement for this type of award.

The ill-health "enhancement" also relates to pensionable service. For example if you had worked for 12 years, all at half-time, this would count as 12 years' pensionable service and so the principle of "enhancement" would allow 20/60ths to be used in the calculation of the pension.

Part VIA of Schedule 2 requires that, at the first stage of the pension assessment, the average pensionable pay should be the average pensionable pay you would have received had you been a whole-time employee of a fire and rescue authority. To all intents and purposes, therefore, the first stage of the pension calculation treats you as if you had been a whole-time regular firefighter throughout your service. "Method of calculation" above tells you how this is done.

The second stage of the calculation applies a "pro rata" principle to the pension calculated at the first stage. This is set out in detail in the explanation of Rule B13 (and Schedule 2 Part VIA). Basically, the whole-time pension is multiplied by the total of your whole-time and part-time service (treated pro rata) divided by the whole-time equivalent. This gives an equitable portion of the whole-time pension.

Adjustments to ill-health pension

The pension derived from the basic formula taking account of any adjustment under Schedule 2 Part VIA may be subject to the following adjustments –

- a reduction for commutation (see the explanation of Rule B7)

- a reduction for allocation (see the explanation of Rule B9)

- a reduction for an election to uprate widow's and children's benefits – generally firefighters with service before 1 April 1972 and so not likely to affect anyone currently serving (see pages B Gen 1)

- a reduction for National Insurance modification – generally firefighters with service before 1 April 1980 (see pages B Gen 2)

- a reduction in case of default (see "Points to Note", Point 7).

- an addition for Pensions Increase (see Annexe 10)

- a reduction in respect of a pension sharing order on divorce, the dissolution of a civil partnership or annulment (see Rule B12 and Annexe 14).

Rule B3 (continued)

Method of calculation of ill-health gratuity

Rule B3(2)(b) tells you to calculate an ill-health gratuity by using the method given in Schedule 2 Part IV.

Schedule 2 Part IV gives the amount of gratuity payable as –

- if you have less than one year of pensionable service:
    - a sum equal to your aggregate pension contributions

- if you have one year or more of pensionable service:
    - a sum equal to your aggregate pension contributions, or
    - 1/12 x average pensionable pay x pensionable service (in years and days)

    whichever is the greater.

"Aggregate pension contributions" are explained in Rule A8.

Effect of part-time service on calculation of ill-health gratuity

Rule A7(4) allows part-time service to count as whole-time service when deciding total pensionable service. Consequently, 2 years of service as a regular firefighter, regardless of hours worked, would qualify you for an ill-health pension (where there is no automatic entitlement because of a qualifying injury). Only if you have less than 2 years, assessed on this principle (and taking account of any transferred-in service) would you expect to receive an ill-health gratuity rather than a pension. The same principle is used to decide if the gratuity would be a sum equal to your aggregate pension contributions (where you have less than one year of pensionable service) or a proportion of pensionable pay, if greater (where you have one year or more of pensionable service).

To assess the amount of an ill-health gratuity where pensionable service is less than one year, the principle is the same as for a whole-time firefighter (shown above), i.e. working out aggregate pension contributions.

To assess the amount of an ill-health gratuity where pensionable service is one year or more, although pensionable service will count as if whole-time throughout, the average pensionable pay will be the actual average pensionable pay, i.e. based on part-time pay if part-time service falls within the averaging period. Short service gratuities are not covered by Schedule 2 Part VIA. If greater, the gratuity would be a sum equal to aggregate pension contributions.

Adjustments to ill-health gratuity

Paragraph 3 of Schedule 2 Part IV states that a firefighter who retires after the beginning of the tax year in which he or she attains State pensionable age must have the gratuity reduced by the capitalised value (as calculated by the Government Actuary) of his or her Guaranteed Minimum Pension (GMP).

State pensionable age is 65 for men, 60 to 65 for women (see Annexe 8).

Rule B3 (continued)

Adjustments to ill-health gratuity (continued)	A GMP is a sum assured under rules allowing pension schemes to contract out of the State pension scheme. This is explained in more detail in Annexe 8.
	GMPs ceased to accrue after 6 April 1997. A firefighter who today does not have enough service to qualify for anything other than an ill-health gratuity will not have any GMP entitlement to deduct. Consequently this requirement will apply to old cases only and, in any event, it is highly unlikely that a firefighter aged 65 would have such limited service that he or she would qualify for an ill-health gratuity.
Payment	Payment will normally commence from the day you retire. It will be made in accordance with Rules L3 and L5.
Example	Examples of the calculation of an ill-health gratuity are given on page B3-Example 1.
	Examples of the calculation of an ill-health pension are given on pages B3-Example 2.
Useful reference source	• FSC 30/2004: introduction of pension provisions for part-time regular firefighters • FPSC 4/2005: explains replacement of compulsory retirement age with normal pension age (but protection for ill-health enhancement for those holding the role of Station Manager B and above)

Points To Note

1. You are "disabled" if you are unable to carry out your duties because of infirmity of mind or body – see the explanation in Rule A10.

2. You are permanently disabled if, at the time the question of your disablement arises, it is considered likely that it will be permanent, i.e. that the disablement will continue to normal pension age (55). This depends upon the medical evidence available at the time – see the explanation in Rule A10.

3. If your disablement was caused by a qualifying injury you would also be eligible to be considered for an injury award under Rule B4.

4. Entitlement to an award is decided in the first place by your fire and rescue authority. Before making their decision they must obtain the opinion of an independent qualified medical practitioner selected by them (see the explanation in Rule H1).

5. If you are dissatisfied with an award based on a medical opinion and believe the problem lies in the opinion, you have a right of appeal to a Regional Board of Medical Referees – see the explanation in Rule H2. If your dissatisfaction is in respect of non-medical matters you have a right of appeal to Crown Court (Sheriff Court in Scotland) – see the explanation in Rule H3.

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Rule B3 (continued)

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6. You will not be eligible for an ill-health award if you retire on some other ground and later find you are permanently disabled, even if it is clear that you were so disabled when you left. This is because an ill-health pension is meant to compensate you for having to retire for medical reasons when you would not otherwise have done so.

7. If you are permanently disabled but have brought about or contributed to your infirmity by your own default, the fire and rescue authority may reduce any ill-health award payable to you by up to 50% - see the explanation in Rule K3.

8. Your fire and rescue authority may check from time to time to see if you are still disabled. See the explanation in Rules K1 and K2 for the terms and effect of this type of review.

9. If a retained or volunteer firefighter suffers a qualifying injury, he or she can be treated as a regular firefighter for purposes of this Rule – see the explanation in Rule J4.

10. If an "earmarking" order has been issued by a court on divorce, dissolution of a civil partnership, annulment or judicial separation (see Annexe 14) the pension or lump sum by commutation (see Rule B7) may need to be reduced in accordance with the order.

11. Pension provisions for part-time regular firefighters were introduced on 13 September 2004.

Example of assessment of ill-health gratuity

Example A

A firefighter retires on grounds of ill-health at age 25. His disability was not brought about by a qualifying injury. At the date he leaves he has completed 215 days of service and he has paid £971.80 in pension contributions.

Formula: Because he has less than one year of service, he has entitlement to an ill-health gratuity equal to his aggregate pension contributions.

Firefighter's ill-health gratuity will be £971.80

Example B

A firefighter retires on grounds of ill-health at age 26. Her disability was not brought about by a qualifying injury. At the date she leaves she has completed 1 year 157 days of service, she has paid £2,359.73 in pension contributions, and her average pensionable pay (APP) is £16,000

Formula: Greater of:

1/12 x APP x years and days of pensionable service

or

a sum equal to aggregate pension contributions

Firefighter's ill-health gratuity will be the greater of:

1/12 x £16,000.00 x 1 157/365 = 1/12 x £16,000.00 x 1.4301 = £1,906.80

or

£2,359.73

therefore gratuity will be £2,359.73

Example C

Assume the firefighter in Example B has served as a part-time (half-time) regular firefighter throughout her 1 year 157 days of service. Her APP is £8,000. She has paid £1,180.00 in contributions. The 1 year 157 days is counted as whole-time in accordance with Rule A7(4).

Formula: With more than one year of service, an ill-health gratuity will be the greater of:

1/12 x APP x years and days of pensionable service

or

a sum equal to aggregate pension contributions

Firefighter's ill-health gratuity will be the greater of:

1/12 x £8,000.00 x 1 157/365 = 1/12 x £8,000.00 x 1.4301 = £953.40

or

£1,180.00

therefore gratuity will be £1,180.00

Example of assessment of ill-health pension

Example A

A firefighter retires on grounds of ill-health at age 28. At the date he leaves he has 3 years 51 days of service and his average pensionable pay (APP) is £16,212.

Formula: Because he has less than 5 years' service, no additional 60ths will be awarded for ill-health retirement. The formula is –

$$\frac{service}{60} \times APP$$

Firefighter's ill-health pension will be:

$$\frac{3\ 51/365}{60} \times £16,212.00 = \frac{3.1397}{60} \times £16,212.00$$

= £848.35 a year

Example B

A firefighter retires on grounds of ill-health at age 30. At the date he leaves he has 7 years 68 days of service and his average pensionable pay (APP) is £16,500.

Formula: Because he has at least 5 but less than 10 years of service, the formula is –

$$\frac{2 \times service}{60} \times APP$$

Firefighter's ill-health pension will be:

$$\frac{2 \times 7\ 68/365}{60} \times £16,500.00 = \frac{14.3726}{60} \times £16,500.00$$

= £3,952.46 a year

Example C

A firefighter retires on grounds of ill-health at age 39. At the date she leaves she has 12 years 15 days of service and her average pensionable pay (APP) is £22,500.

Formula: Because she has at least 10 but less than 13 years of service, the formula is –

$$\frac{20}{60} \times APP$$

Firefighter's ill-health pension will be:

$$\frac{20}{60} \times £22,500.00$$

= £7,500.00 a year

Note: Pensions as calculated above may be subject to reductions for –
- Commutation – see Rule B7 (see Example E on pages B7-Example 2 in respect of C above)
- Allocation – see Rule B9
- Widow's pension uprating (where service before 1.4.1972) – see pages B Gen 1
- National Insurance modification (where service before 1.4.1980) – see pages B Gen 2
- Pension sharing orders on divorce/dissolution of civil partnership: see Rule B12 and Annexe 14

More examples follow . . .

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Example of assessment of ill-health pension (continued)

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Example D

A firefighter (Station Manager B) retires on grounds of ill-health at age 46. At the date he leaves he has 24 years of service and his average pensionable pay (APP) is £30,000.

Formula: Because he has at least 13 years' service, the formula is –

$$\frac{7}{60} + \frac{\text{service to 20 years}}{60} + \frac{2 \ \text{x} \ \text{service in excess of 20 years}}{60} \ \text{x} \ \text{APP}$$

i.e. his pension is based on the ordinary/short service pension formula but with the addition of 7/60ths. However, when applying this formula, care must be taken to ensure that the resultant pension will not be more than the firefighter would have achieved at age 60 or more than 40/60ths of APP.

In this case the addition of 7/60ths would not exceed those limits.

Firefighter's ill-health pension will be:

$$\frac{7}{60} + \frac{20}{60} + \frac{2 \ \text{x} \ 4}{60} \ \text{x} \ £30,000.00 = \frac{35}{60} \ \text{x} \ £30,000.00$$

= £17,500.00 a year

Example E

A firefighter (Station Manager A) retires on grounds of ill-health at age 53. At the date he leaves he has 29 years' service and his average pensionable pay (APP) is £26,000.

Formula: Because he has at least 13 years of service, the formula is –

$$\frac{7}{60} + \frac{\text{service to 20 years}}{60} + \frac{2 \ \text{x} \ \text{service in excess of 20 years}}{60} \ \text{x} \ \text{APP}$$

i.e. his pension is based on the ordinary/short service pension formula but with the addition of 7/60ths. However, at age 53 he would accrue only a further 4/60ths of APP by normal pension age (55), and with 29 years' service he already has entitlement to 38/60ths of APP and cannot reckon more than 40/60ths. Consequently, his ill-health "enhancement" must be restricted to the lesser of –

- 7/60ths allowed by the formula, or
- 4/60ths allowed by normal pension age, or
- 2/60ths allowed by the 40/60ths maximum.

His ill-health "enhancement", therefore, will be an additional 2/60ths.

Firefighter's ill-health pension will be:

$$\frac{2}{60} + \frac{20}{60} + \frac{2 \ \text{x} \ 9}{60} \ \text{x} \ £26,000.00 = \frac{40}{60} \ \text{x} \ £26,000.00$$

= £17,333.33 a year

Note: Pensions as calculated above may be subject to reductions for –

- Commutation – see Rule B7
- Allocation – see Rule B9
- Widow's pension uprating (where service before 1.4.1972) – see pages B Gen 1
- National Insurance modification (where service before 1.4.1980) – see pages B Gen 2
- Pension sharing orders on divorce/dissolution of civil partnership: see Rule B12 and Annexe 14

More examples follow . . .

Example of assessment of ill-health pension (continued)

Example F

Assume the firefighter in Example D worked for 20 years at whole-time and 4 years at part-time (quarter-time). Rule A7(4) allows the 24 years to count in full at the first stage of the assessment. Schedule 2 Part VIA allows the use of the whole-time average pensionable pay. Therefore the first stage of the assessment would produce the same ill-health pension as in Example D, i.e. £17,500 a year.

Assessment following formula given in Schedule 2 Part VIA

Formula: $\dfrac{A \times (B + C)}{D}$

where A = £17,500.00
           B = 20
           C = 1
           D = 24

Firefighter's ill-health pension will be:

$$\frac{£17,500.00 \times (20 + 1)}{24}$$

= £15,312.50 a year

Example G

Assume the firefighter in Example E worked for 20 years at whole-time and 9 years at part-time (half-time). Rule A7(4) allows the 29 years to count in full at the first stage of the assessment. Schedule 2 Part VIA allows the use of the whole-time average pensionable pay. Therefore the first stage of the assessment would produce the same ill-health pension as in Example E, i.e. £17,333.33 a year.

Assessment following formula given in Schedule 2 Part VIA

Formula: $\dfrac{A \times (B + C)}{D}$

where A = £17,333.33
           B = 20
           C = 4.5
           D = 29

Firefighter's ill-health pension will be:

$$\frac{£17,333.33 \times (20 + 4.5)}{29}$$

= £14,643.68 a year

Note: Pensions as calculated above may be subject to reductions for –

- Commutation – see Rule B7
- Allocation – see Rule B9
- Widow's pension uprating (where service before 1.4.1972) – see pages B Gen 1
- National Insurance modification (where service before 1.4.1980) – see pages B Gen 2
- Pension sharing orders on divorce/dissolution of civil partnership: see Rule B12 and Annexe 14