

RULE B10

Limitation of commuted or allocated portion of pension

Rule B10 sets the limits for commutation or allocation of your pension.

Commutation and allocation

The commutation referred to here is commutation of **part** of your pension under Rule B7, not total commutation under Rule B8.

Allocation is as described in Rule B9.

Limitation

Rule B10(1)(a) states that you may not commute or allocate so much of your pension that the remaining part payable to you would be less than two thirds of the amount of pension payable before –

- allocation
- commutation
- adjustment for widow's options (generally firefighters with service before 1 April 1972 so not likely to affect anyone currently serving – see pages B Gen 1)
- National Insurance modification (generally firefighters with service before 1 April 1980 – see pages B Gen 2)

The effect of Rule B12 means that if a person sharing order has been issued by a court on divorce, dissolution of civil partnership or annulment, it will be the pension as due to you **after** the reduction required by the order which is tested for this limitation.

Also, if the pension to which you are entitled is a deferred pension and you are entitled to a Guaranteed Minimum Pension (GMP) under the State pension scheme (see the explanation of GMPs in Rule J1 and Annexe 8) then the pension payable to you (including any Pensions Increase) must be at least equal to your GMP at the time. So a reduction for commutation or allocation must not reduce your pension below the value of your GMP.

When testing these limits, Rule B10(2) says that no account need be taken of any increase under Rule I2(3) of the FPS or Rule 2 or 3 of Part 7 of the Firefighters' Compensation Scheme. This relates to awards paid to servicemen and the likelihood of such an increase being paid is very remote.

Example

An example of the application of these limits is given on page B10-Example 1.

Useful reference source

- FSC 39/1978: contracting-out limitation
- FSC 30/2004: various amendments to allocation provisions and introduction of pension provisions for part-time regular firefighters

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Rule B10 (continued)

Points To Note

1. The reference to the amount of pension payable would mean the amount calculated having regard to Schedule 2 Part VIA in the case of a regular firefighter with part-time service.
2. Before 1 April 2006, Rule B10(2) (increase in award to serviceman) referred to Rule I4. This Rule was removed from the FPS and corresponding provisions put into the Firefighters' Compensation Scheme with effect from 1 April 2006.

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Example of limitation

Example

A male firefighter aged 50 with 30 years' service retires with an ordinary pension and gives a notice of allocation in favour of his female partner aged 35. The couple are not married but the fire and rescue authority accept that the firefighter's partner is a dependant. Medical guidance is that the firefighter has normal life expectancy and so the notice of allocation is accepted.

The firefighter wishes to commute one quarter of his pension and allocate the maximum of the remainder. Because the total of commutation and allocation must not exceed one third of the pension he will, therefore, be allocating one twelfth.

Commutation factor (see page B7-Chart1) for age 51 next birthday when pension becomes payable: 1500.

Allocation factor (see table 1A.1) for a pensioner age 50 who retired in normal health, beneficiary age 35, male to female allocation: 2.864.

	Ill-health pension before commutation/allocation	£18,000.00	
less	Pension commuted (one quarter)	£ 4,500.00	
less	Pension allocated (one twelfth)	<u>£ 1,500.00</u>	
	Ill-health pension after commutation and allocation	<u>£12,000.00</u>	a year
	Commuted lump sum $£4,500/100 \times 1500$	= £67,500.00	
	Beneficiary's pension on former firefighter's death: $£1,500 \times 2.864$	= £ 4,296.00	a year

If the firefighter's partner were to predecease him, the £1,500 which was allocated would be added back on to his pension with effect from the date of her death.