

## **RULE B4**

### **Injury award**

**Rule B4 sets out the terms of eligibility for an injury award.  
Schedule 2 Part V explains how an injury award should be calculated.  
Schedule 2 Part VIA explains adjustments for part-time service**

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

The explanation of Rule B4 as it applied up to 31 March 2006 appears on the following pages as "archived" material.

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**Eligibility for an injury award**

Rule B4 explains that in order to be entitled to payment of an injury award you must –

- have been a regular firefighter who has retired
- be permanently disabled with an infirmity occasioned by a qualifying injury (see Rule A10 for the meaning of “disability” and Rules A9 and A11 for the meaning of “qualifying injury”. “Points To Note” below offers a summary).

If you have opted out of the FPS you could still be eligible for an injury award if you satisfy the above conditions.

The terms of eligibility allow for the disability occasioned by a qualifying injury to become apparent **after** retirement – an “after-appearing injury”.

**Nature of award**

An injury award will be –

- a lump sum injury gratuity, and
- an injury pension – subject to any adjustments to your “Guaranteed Minimum Income” (see “Method of calculation of injury pension” below).

**Method of calculation of injury gratuity**

Rule B4(2) tells you to calculate an injury gratuity by using the table given in Schedule 2 Part V. The relevant details are given here on page B4-Chart 1.

You will see that to be able to use the chart you must know the relevant “percentage disablement”, i.e. degree of disablement. The meaning of degree of disablement is given in the explanation of Rule A10. An example of how it is assessed is given on page A10-Example 1. Basically, it is judged by the extent to which your earning capacity has been affected by your qualifying injury. This will put you into one of four bands of disability – slight, minor, major or severe. Alongside each of these four bands, in the second column of the table you will see the percentage of your average pensionable pay which must be paid to you as a lump sum injury gratuity.

**Effect of part-time service on calculation of injury gratuity**

If you have served as a part-time firefighter this is not reflected in the assessment of degree of disablement. The comparison between earnings as a firefighter and your potential earnings as a non-firefighter will be based on the whole-time equivalent earnings in both cases.

For the calculation you must take account of Rule A7(4) (the reckoning of service for the purposes of awards) and to Rule B13 (part-time members) which directs you to look at Schedule 2 Part VIA.

**Rule B4 (continued)**

**Effect of part-time service on calculation of injury gratuity (continued)**

The table in Schedule 2 Part V does not rely on length of service - you simply select the factor appropriate to your degree of disablement. The table tells you that this will be the percentage of average pensionable pay to be paid as a gratuity.

This could produce an inequitable amount for someone who is part-time. For example, if you had worked whole-time throughout most of your service but reduced your hours considerably, say, during your last 3 years, the use of average pensionable pay (in this case a part-time amount) would scale down the gratuity. Consequently the formula given in Schedule 2 Part VIA is applied to give a more equitable result.

This requires the use of the whole-time equivalent average pensionable pay to work out the gratuity. Then the gratuity is multiplied by the total of your whole-time and part-time service (treated pro rata) divided by the whole-time equivalent. This means that the gratuity reflects the hours you have worked over your whole career as a regular firefighter rather than hours worked in your later years of service.

**Method of calculation of injury pension**

The injury pension, too, is calculated by reference to the table in Schedule 2 Part V (see page B4-Chart 1). In this case, however, you must not only take account of the relevant degree of disability, but also the length of "relevant service".

"Relevant service" means, in the case of a regular firefighter –

- who is a Scheme member – service which is pensionable
- who had the option to pay contributions to count a period of unpaid additional maternity or adoption leave as pensionable service but declined - service which **would** have counted as pensionable if contributions had been paid
- who has opted out of the Scheme – service which **would** have been pensionable but for the election to opt out.

Suppose your degree of disablement has been assessed as 30% and you have 12 years' relevant service. By looking at the table you will see that you are entitled to 50% of your average pensionable pay. But see below for adjustments which must apply.

**Adjustments to injury pension**

The figure extracted from the table, as described above, is the "Guaranteed Minimum Income" offered by the FPS in respect of your injury. If you are eligible to receive other sources of income from the FPS, or from the Department for Work and Pensions (DWP) in respect of the injury, that income must be taken into account, i.e. deducted, from the Guaranteed Minimum Income figure taken from the table. The nature of the deductions is explained in Schedule 2 Part V. The amount left after these deductions have been made will be your injury pension.

**Rule B4 (continued)**

**Adjustments to injury pension (continued)**

**Firstly**, account must be taken of any other pension you are eligible to receive from the FPS. The pension must be in respect of the period of service upon which the injury pension is based.

Note that –

- if a pension sharing order has been issued on your divorce, dissolution of civil partnership, or annulment, account must be taken of the full amount of the “other” pension, i.e. before its apportionment in accordance with the pension sharing order
- if additional 60ths have been purchased under Rules G5 to G8, these additional 60ths are not taken into account in the “other” pension; this is because the benefits listed in Schedule 8 Part III as being subject to an increase do not include the pension referred to in Schedule 2 Part V , paragraph 2(1)
- the “other” pension, must be the amount due to you before any deduction for commutation, allocation, uprating of widow’s benefits (firefighters with service before April 1972) or National Insurance modification (firefighters with service before April 1980) and before the addition of any Pensions Increase.

Three quarters of the “other” pension must be worked out and deducted from the Guaranteed Minimum Income figure.

If you have opted out of the FPS, the fact that you may not be in receipt of any other pension from the Scheme does not matter. The **full** amount (not three-quarters as for a FPS member) of any pension you would have received, had you not opted out, will be deducted from the Guaranteed Minimum Income.

Similarly it would be based on the pensionable service which **would** have counted had you not failed to pay contributions in respect of unpaid additional maternity or adoption leave.

If you have had a period of part-time service as a regular firefighter, the pension would be adjusted to reflect this (see below).

The other pension will usually be an ill-health pension, but it could be an ordinary, short service or deferred pension if you retired before the effect of the injury appeared (i.e. if you have an “after-appearing” injury).

**Secondly**, account must be taken of certain DWP benefits payable to you in respect of the injury. DWP benefits are amended periodically. A list of the benefits currently deductible is given on page B4-Chart 2.

**Rule B4 (continued)**

**Adjustments to injury pension (continued)**

It is important that you claim any relevant DWP benefits because the FPS requires your fire and rescue authority to take account of any of the benefits to which you are entitled whether you claim them or not. In other words, you cannot choose to receive a portion of your Guaranteed Minimum Income from the fire and rescue authority rather than the DWP. Your authority may obtain this information from the DWP if you do not provide it yourself.

The scale of DWP benefits may change. They are deducted from your Guaranteed Minimum Income at the scale at which they were payable when you left the fire and rescue service.

If any of your DWP benefits cease, or you become entitled to a new benefit, you must tell your fire and rescue authority right away so that the appropriate adjustment can be made to your pension.

When all the adjustments have been made to your Guaranteed Minimum Income, if there is any balance left, that balance will become your injury pension.

An injury pension will be subject to Pensions Increase (see Annexe 10).

**Effect of part-time service on calculation of injury pension**

The principles given above are varied as follows if you have had a period of part-time service as a regular firefighter. You must take note of Rule A7(4), Rule B13 and Schedule 2 Part VIA.

**Firstly**, the degree of disablement must be decided. The fact that you have served as a part-time firefighter will not be reflected in the assessment of degree of disablement. The comparison between earnings as a firefighter and your potential earnings as a non-firefighter will be based on the whole-time equivalent earnings in both cases.

**Secondly**, because the table in Schedule 2 Part V has regard to both degree of disablement and length of service, and because Rule A7(4) says that any period of service as a part-time firefighter is to be treated as whole-time service when assessing pensionable service, the service used to decide the relevant factor will be that which would have been used had you been whole-time throughout your career as a firefighter.

**Thirdly**, having selected the appropriate factor, Schedule 2 Part VIA requires the "Guaranteed Minimum Income" to be worked out on the whole-time equivalent of your pensionable pay (if it would otherwise be a part-time figure).

**Fourthly**, in accordance with Schedule 2 Part VIA the "Guaranteed Minimum Income" is multiplied by the total of your whole-time and part-time service (treated pro rata) divided by the whole-time equivalent. This means that it reflects the hours you have worked over your whole career as a regular firefighter.

**Rule B4 (continued)**

**Effect of part-time service on calculation of injury pension (continued)**

**Fifthly**, it must be reduced by any other pension to which you are entitled under the FPS (or would have been entitled in the case of an optant-out). This pension will be assessed in line with the pro rata principles required by Schedule 2 Part VIA (explanations and examples are given in respect of all awards in Part B of this Commentary).

**Sixthly**, account must be taken of any DWP benefits payable to you in respect of the injury.

The balance will be your injury pension.

**Payment**

If you are eligible for payment of an injury pension and/or gratuity at the time of your retirement, payment will commence from the day you retire.

In a case of an “after-appearing” injury (see earlier references), if the date on which you became disabled can be established, payment will commence from that date. If the date of disablement cannot be established, payment will commence from the date on which your claim of disablement was first made known to the fire and rescue authority (see “Date of disablement” in the explanation of Rule A10).

If the necessary adjustments are greater than the Guaranteed Minimum Income, no pension will be payable until and unless this position changes. The position might change because –

- the Guaranteed Minimum Income is increased following a review (see the explanation of Rule K2), and/or
- your deductible DWP benefits reduce.

Payments are made in accordance with Rules L3 and L5.

**Example**

Examples of the calculation of an injury pension and gratuity are given on pages B4-Example 1.

**Useful reference source**

- FSC 8/1998: assessment of degree of disablement in respect of retained firefighters
- FSC 30/2004: introduction of pension provisions for part-time regular firefighters
- FPSC 4/2005: prevention of duplication of injury awards

**Rule B4 (continued)**

**Points To Note**

1. You are “disabled” if you are unable to carry out your duties because of infirmity of mind or body. You are “permanently disabled” if, at the time the question of disability arises for decision, your disablement is considered likely to be permanent – see explanation in Rule A10.
2. A “qualifying injury” is an injury received in the execution of duties as a regular firefighter (or, in the case of a retained or volunteer firefighter in the exercise of duties as a retained or volunteer firefighter). In both cases it must be received without the person’s own default. See the explanation in Rule A9.
3. You are treated as being disabled as a result of an injury if the injury either caused or substantially contributed to the infirmity which constitutes your disablement. See the explanation in Rule A11.
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 you 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.
6. Your fire and rescue authority will check, at intervals of their choosing, whether your degree of disablement has altered or whether the disability has ceased altogether. This may cause your injury pension to be adjusted or withdrawn, according to circumstances. See the explanation in Rule K2.
7. Unlike other pensions, you cannot commute or allocate part of your injury pension. Nor is the pension subject to reduction for an election to uprate widow’s and children’s benefits (firefighters with service before 1 April 1972) or National Insurance modification (firefighters with service before 1 April 1980).
8. 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 of Rule J4. When assessing the “Guaranteed Minimum Income” in these circumstances, “relevant service” is the service which would count as pensionable if the retained or volunteer firefighter was a regular firefighter.
9. An injury is considered to be a “non-shareable” benefit for the purposes of pension sharing. If a pension sharing order has been issued on divorce, dissolution of a civil partnership, or annulment, the injury award would be disregarded in the apportionment of benefits.

**Rule B4 (continued)**

**Points To Note continued**

10. State benefits, and the legislation under which they are paid, change from time to time. The benefits listed in paragraph 3 of Part V of Schedule 2 of the Firemen's Pension Scheme Order 1992 as deductible from a firefighter's Guaranteed Minimum Income were benefits payable under the Social Security Act 1975 and the Social Security Pensions Act 1975. These Acts have been repealed. Corresponding benefits (some renamed) are now payable under the Social Security Contributions and Benefits Act 1992. The table on page B4-Chart 2 lists in the first column the benefits mentioned in the 1992 Order. In the second column the current, corresponding benefits are listed alongside.
11. The effect of Section 2 ("Continuity of the law") of the Social Security (Consequential Provisions) Act 1992 allows benefits payable under the Social Security Contributions and Benefits Act 1992 which replace the earlier benefits, to be deducted from the Guaranteed Minimum Income in the same manner as those earlier benefits.
12. Pension provisions for part-time regular firefighters were introduced on 13 September 2004.
13. Rule L4 was amended and Rules L4A and L4B added with effect from 21 November 2005 to prevent duplication of benefits where a person becomes entitled to more than one ill-health/injury award. This would normally be where the person is employed as both a regular and a retained or volunteer firefighter – see the pages explaining these rules.

**Injury awards according to degree of disablement**  
**Table as set out in Schedule 2 Part V**

Percentage disablement	Gratuity as percentage of average pensionable pay	Pension as percentage of average pensionable pay			
		Less than 5 years' relevant service	5 or more but less than 15 years' relevant service	15 or more but less than 25 years' relevant service	25 or more years' relevant service
25 or less (slight disablement)	12.5	15	30	45	60
More than 25 but not more than 50 (minor disablement)	25	40	50	60	70
More than 50 but not more than 75 (major disablement)	37.5	65	70	75	80
More than 75 (severe disablement)	50	85	85	85	85

“Relevant service” means –

- in the case of a regular firefighter who is a Scheme member, service which is pensionable
- in the case of a regular firefighter who has opted out of the Scheme, service which would have been pensionable but for the election to opt out
- in the case of a regular firefighter who has had the option to pay contributions to count a period of unpaid additional maternity or adoption leave but who did not take up the option, service which **would** have counted as pensionable pay but for the failure to pay contributions
- in the case of a retained or volunteer firefighter, service which would count as pensionable had he or she been a regular firefighter.

<b>State benefits deductible from Guaranteed Minimum Income</b>
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State benefits and the legislation under which they are paid change from time to time. Below (in the first column of the table) is a list of the State benefits given in Schedule 2 Part V, paragraph 3 of the Firemen's Pension Scheme Order 1992 as deductible from the Guaranteed Minimum Income. In the second column of the table the current title of each benefit is given.

Benefit as named in FPSO 1973	Current name of benefit
<p>1. Disablement Pension [s57 of SSA 1975]</p> <p>including:</p> <p>(a) Unemployability Supplement [s58 of SSA 1975]</p> <p style="padding-left: 20px;">(aa) less any increase in Supplement [s59 of SSA 1975]</p> <p>(b) Special Hardship Supplement [s60 of SSA 1975]</p> <p>(c) Dependants Supplement [s64 or s66 of SSA 1975]</p> <p>(d) Hospital Treatment increase [s62 of SSA 1975]</p>	<p>1. Industrial Injuries Benefit [s94 of SSCBA 1992]</p> <p>including:</p> <p>(a) Unemployability Supplement [Part 1 of Schedule 7 to SSCBA 1992]</p> <p style="padding-left: 20px;">(aa) less any increase in Supplement [Part 1 of Schedule 7 to SSCBA 1992]</p> <p>(b) Reduced Earnings Allowance* [see 2 below]</p> <p>(c) N/A</p> <p>(d) Hospital Treatment increase [Part 3 of Schedule 7 to SSCBA 1992]</p>
<p>2. Reduced Earnings Allowance [s59A of SSA 1975]</p>	<p>2. Reduced Earnings Allowance [s94 of SSCBA 1992]</p>
<p>3. Sickness Benefit [s14 and s50A of SSA 1975]</p> <p>plus</p> <p>(a) Dependants Increase [Chapter III Part II of SSA 1975]</p>	<p>3. Incapacity Benefit [s30A of SSCBA 1992]</p> <p>plus</p> <p>(a) Dependency Increase [Part 4 of SSCBA 1992]</p>
<p>4. Invalidity Pension [s15 of SSA 1975]</p> <p>plus</p> <p>(a) Additional Component [s14 of SSPA 1975]</p> <p>(b) Dependants Increase [Chapter III Part II of SSA 1975]</p>	<p>4. Incapacity Benefit [s30A of SSCBA 1992]</p> <p>plus</p> <p>(a) N/A</p> <p>(b) Dependency Increase [Part 4 of SSCBA 1992]</p>
<p>5. Severe Disablement Allowance [s36 of SSA 1975]</p> <p>plus</p> <p>(a) Dependants Increase [Chapter III Part II of SSA 1975]</p>	<p>5. Severe Disablement Allowance [s68 and 69 of SSCBA 1992]</p> <p>plus</p> <p>(a) Dependency Increase [Part 4 of SSCBA 1992]</p>
<p>6. Disablement Gratuity [s57 of SSA 1975]</p>	<p>6. Disablement Gratuity [Part 2 of Schedule 7 to SSCBA 1992]</p>

"SSA 1975" means The Social Security Act 1975      "SSPA 1975" means The Social Security Pensions Act 1975  
 "SSCBA 1992" means The Social Security Contributions and Benefits Act 1992

\*Special Hardship Allowance was the predecessor of Special Hardship Allowance which has since been replaced by Reduced Earnings Allowance.

**Example of assessment of injury gratuity and pension**

**Example A**

*A firefighter retires on grounds of ill-health as a result of a qualifying injury at age 42. At the date that she leaves she has 7 years 257 days of service and her average pensionable pay (APP) is £18,000. Her degree of disablement is 20%. As a result of the injury she is also entitled to DWP benefits of £1,000 a year.*

She will be entitled to:

- an ill-health pension (under Rule B3)
- an injury gratuity
- an injury pension

Ill-health pension

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

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

Firefighter's ill-health pension will be:

$$\frac{2 \times 7 \frac{257}{365}}{60} \times £18,000.00 = \frac{15.4082}{60} \times £18,000.00$$

$$= £4,622.46 \text{ a year (before commutation or allocation – see Rules B7 and B9)}$$

Injury gratuity

Formula: Table figure x APP

Look at the table on page B4-Chart 1. You will see that a person with a 20% degree of disablement (first column) is entitled to an injury gratuity (second column) of 12.5% of APP

Firefighter's injury gratuity will be:

$$12.5\% \times £18,000.00$$

$$= £2,250.00$$

Injury pension

Formula: (Table figure x APP) less (3/4 x ill-health pension) less DWP benefits

Look at the table on page B4-Chart 1. You will see that a person with a 20% degree of disablement (first column) and 5 or more but less than 15 years' service (fourth column) is entitled to a Guaranteed Minimum Income of 30% of APP.

Firefighter's injury pension will be:

$$(30\% \times £18,000.00) - (3/4 \times £4,622.46) - £1,000 = £5,400 - £3,466.85 - £1,000$$

$$= £933.15 \text{ a year}$$

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Another example follows . . .

**Example of assessment of injury gratuity and pension (continued)**

**Example B**

*A firefighter retires on grounds of ill-health as a result of a qualifying injury at age 42. At the date that he leaves he has 22 years of service and his average pensionable pay (APP) is £27,500. His degree of disablement is 70%. As a result of the injury he is also entitled to DWP benefits of £2,000 a year.*

He will be entitled to:

- an ill-health pension (under Rule B3)
- an injury gratuity
- an injury pension

Ill-health pension

Formula: Because he has more than 13 years' service he will have an ill-health "enhancement" of 7/60ths added to the standard pension formula –

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

Firefighter's ill-health pension will be:

$$\frac{7}{60} + \frac{20}{60} + \frac{2 \times 2}{60} \times £27,500.00 = \frac{31}{60} \times £27,500.00$$

= £14,208.33 a year (before commutation or allocation – see Rules B7 and B9)

Injury gratuity

Formula: Table figure x APP

Look at the table on page B4-Chart 1. You will see that a person with a 70% degree of disablement (first column) is entitled to an injury gratuity (second column) of 37.5% of APP

Firefighter's injury gratuity will be:

$$37.5\% \times £27,500.00$$

= £10,312.50

Injury pension

Formula: (Table figure x APP) less (3/4 x ill-health pension) less DWP benefits

Look at the table on page B4-Chart 1. You will see that a person with a 70% degree of disablement (first column) and 15 or more but less than 25 years' service (fifth column) is entitled to a Guaranteed Minimum Income of 75% of APP.

Firefighter's injury pension will be:

$$(75\% \times £27,500.00) - (3/4 \times £14,208.33) - £2,000 = £20,625.00 - £10,656.25 - £2,000$$

= £7,968.75 a year

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Another example follows . . .

**Example of assessment of injury gratuity and pension (continued)**

**Example C**

Assume that the firefighter in Example B had served as a part-time (half-time) regular firefighter throughout his 22 years of service. His APP is £13,750 (the whole-time equivalent would be £27,500) and his degree of disablement is 70%. As a result of the injury he is also entitled to DWP benefits of £2,000 a year.

He will be entitled to:

- an ill-health pension (under Rule B3)
- an injury gratuity
- an injury pension

Ill-health pension

The ill-health pension will be the same as in Example B (£14,208.33 a year) but adjusted to reflect part-time hours. As service is half-time throughout, Schedule 2 Part VIA would give an ill-health pension of £7,104.17 a year. (See Rule B3 for examples of assessment of ill-health pensions based on part-time service).

Injury gratuity

Formula: (Table figure x whole-time APP) x  $\frac{B + C}{D}$

where B = 0  
 C = 11  
 D = 22

Look at the table on page B4-Chart 1. You will see that a person with a 70% degree of disablement (first column) is entitled to an injury gratuity (second column) of 37.5% of APP

Firefighter's injury gratuity will be:

$$\begin{aligned} & (37.5\% \times £27,500.00) \times \frac{0 + 11}{22} \\ &= £10,312.50 \times \frac{11}{22} \\ &= £5,156.25 \end{aligned}$$

Injury pension

Formula: (Table figure x whole-time APP) x  $\frac{B + C}{D}$  less (3/4 x ill-health pension) less DWP benefits

where B = 0  
 C = 11  
 D = 22

Look at the table on page B4-Chart 1. You will see that a person with a 70% degree of disablement (first column) and 15 or more but less than 25 years' service (fifth column) is entitled to a Guaranteed Minimum Income of 75% of APP.

Firefighter's injury pension will be:

$$\begin{aligned} & (75\% \times £27,500.00 \times \frac{11}{22}) - (3/4 \times £7,104.17) - £2,000 \\ &= £10,312.50 - £5,328.13 - £2,000 \\ &= £2,984.37 \text{ a year} \end{aligned}$$