

RULE C2

Spouse's or civil partner's special award

Rule C2 sets out the terms of eligibility for a spouse's or civil partner's special award where a firefighter or former firefighter dies from the effects of a qualifying injury. Part II of Schedule 3 explains how the award should be calculated.

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

The explanation of Rule C2 as it applied up to 31 March 2006 appears on the following pages as "archived" material.

RULE C2 ARCHIVED
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Eligibility for a spouse's or civil partner's special award

Rule C2(1) says that if you are or were a regular firefighter and you die from the effects of a qualifying injury, or infirmity of mind or body occasioned by a qualifying injury, your widow(er) or civil partner will be entitled to a spouse's or civil partner's special award under this Rule.

The special award is –

- a special pension, and
- a gratuity, subject to a reduction in respect of any injury gratuity paid to you. (Note that in some circumstances this could cancel out the widow(er)'s or civil partner's gratuity).

Exclusions

None – this Rule applies to the widow(er) or civil partner of an FPS member or optant-out.

Limitations

See Rule C5 (post-retirement marriage or civil partnership) and Rule C8 (limitation where spouses or civil partners living apart) for the adjustment or limitation of benefits in these circumstances.

Method of calculation

There are 2 parts to the award – a special pension and a lump sum gratuity.

The special pension is calculated in accordance with Part II of Schedule 3.

This states that a spouse's or civil partner's special pension is –

45% of the deceased's average pensionable pay*

The gratuity is calculated in accordance with Rule C2(3) and (4) and limited by Rule C2(5).

The gratuity payable to your widow(er) or civil partner is –

25% of your average pensionable pay*

plus, if you died in service, the greater of

- your average pensionable pay*, and
- two and a quarter times the notional ill-health pension you would have received had you retired on health grounds on the day you died#.

*Average pensionable pay is explained in Rule G1

In the case of a civil partner, this pension must be pro rated by the formula:

$$\frac{\text{service after 5.4.1988}}{\text{total service}}$$

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Rule C2 (continued)

Method of calculation (continued)	The limitation referred to in Rule C2(5) requires that any injury gratuity received by you should be deducted from the gratuity otherwise payable to your widow(er) or civil partner. So if your own gratuity was greater than the sum calculated for your spouse or civil partner, he or she will not receive a gratuity; if it was less, your spouse or civil partner will be paid the difference.
Effect of part-time service	<p>If the firefighter had a period of part-time service, Schedule 3 Part II, paragraph 2 requires that the special pension should be assessed using the formula in Schedule 2 Part VIA (calculation of awards for part-time service) and the average pensionable pay the firefighter would have received if a whole-time employee of the fire and rescue authority. In other words, the first stage of the assessment is to calculate the special award as if the firefighter had been whole-time throughout his/her service; the second stage then pro rates the award in accordance with the firefighter's actual service as a proportion of whole-time.</p> <p>As regards the gratuity, however, references to average pensionable pay mean the actual average pensionable pay of the firefighter (i.e. a pro rata amount if the firefighter was working part-time hours during the averaging period). The references to the notional pension are to the whole-time pension pro rated in accordance with Schedule 2 Part VIA (and, in the case of a civil partner, further pro rated in line with Rule C2(3)).</p>
Payment	Payment will be made in accordance with Rules L3 and L5.
Example	Examples of the assessment of a spouse's special award and a civil partner's special award are given on pages C2-Example 1 and C2-Example 2 respectively.
Useful reference source	<ul style="list-style-type: none">• FSC 32/1979: introduced the higher level of gratuity for death in service• FSC 30/2004: introduction of pension provisions for part-time regular firefighters• FPSC 5/2005: introduction of survivor's benefits for civil partners

Points To Note

1. Because the spouse's or civil partner's special pension is based on a proportion of average pensionable pay rather than on service, there are no special provisions applying to this pension in respect of a firefighter's service before 1 April 1972 as there are for the ordinary pension under Rule C1. However, account would have to be taken of pre 1 April 1972 service when working out a notional ill-health pension for calculating the gratuity due in the event of your death in service.

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Rule C2 (continued)

Points To Note continued

2. It does not necessarily follow that because a former firefighter was entitled to an injury award, his or her spouse or civil partner will also be entitled to the injury-based special award. The former firefighter must have died as the result of a qualifying injury for the special award to be paid, otherwise his or her spouse or civil partner would receive a spouse's or civil partner's ordinary pension.
3. The gratuity payable to your widow(er) or civil partner will be reduced by any injury gratuity you have received. This has the effect of reducing or cancelling out your widow(er)'s or civil partner's gratuity. It would only be in circumstances where the firefighter did not receive an injury gratuity him or herself that a full widow's or civil partner's gratuity would be paid.
4. If you die from the effects of a qualifying injury and the conditions for Rule C3 are satisfied (e.g. you put your own life at risk to save someone else) then your widow(er) or civil partner would be entitled to the higher level of award under that Rule instead.
5. If you have been retired for some time, the level of average pensionable pay used for the assessment of the special award may appear quite low but, once calculated, both the spouse's or civil partner's pension and gratuity will be subject to Pensions Increase (see Annexe 10).
6. For each of the 13 weeks following your death, a payment equivalent to your weekly pensionable pay (death in service) or weekly rate of pension (death on pension) would be paid to your spouse or civil partner under Rule E8.
7. Note that if you were living apart from your husband/wife/civil partner at the date of your death, pension rights are limited in accordance with Rule C8.
8. There is also a limitation on benefits in the case of a marriage which takes place, or a civil partnership formed, after a firefighter has retired – see the explanation of Rule C5.
9. Following divorce or dissolution of a civil partnership your former spouse or civil partner does not have entitlement to benefits as a surviving spouse or civil partner when you die.
10. Payment of a spouse's or civil partner's pension will cease if
 - your widow(er) remarries or forms a civil partnership, or
 - your civil partner forms a subsequent civil partnership or marries– see the explanation of Rule C9.
11. A spouse's pension paid under Rule C2 is not affected by a pension sharing order issued by a court on divorce, dissolution of civil partnership or annulment. Nor would it be affected by an "earmarking" order issued by a court on divorce, dissolution of civil partnership, annulment or judicial separation. (See Annexe 14 for more information about the effect of divorce, etc. on pension rights.)
12. Pension provisions for part-time regular firefighters were introduced on 13 September 2004.

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Rule C2 (continued)

Points To Note continued

13. 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:

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

RULE C2 ARCHIVED

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Example of assessment of spouse's special award

Example A

A firefighter dies in service as a result of a qualifying injury. At the date of death she had 3 years 159 days of service and her average pensionable pay (APP) was £16,000.

Her spouse will be entitled to a special pension and a special award gratuity. Although the spouse's pension is based on a percentage of APP without regard to length of service, to work out the special award gratuity a calculation of notional ill-health pension as at the date of death must be made. In this case, because the firefighter has less than 5 years' service, there would be no "ill-health enhancement" of additional 60ths in the calculation of the notional ill-health pension.

Spouse's special pension

Formula: 45% x APP

Spouse's special pension will be:

$$\begin{aligned} &45\% \times \text{£}16,000.00 \\ &= \text{£}7,200.00 \text{ a year} \end{aligned}$$

Spouse's special award gratuity

Formula: 25% x APP

plus greater of –

$$1 \times \text{APP}$$

or

$$2.25 \times \frac{\text{service}}{60} \times \text{APP}$$

Spouse's special award gratuity will be :

25% x £16,000.00	=		£ 4,000.00
plus greater of –			
1 x £16,000.00	=	£16,000.00:	£16,000.00
or			
$2.25 \times \frac{3 \text{ } 159/365}{60} \times \text{£}16,000.00$	=	£2,061.37	_____
therefore special award gratuity will be			<u>£20,000.00</u>

The spouse's special pension above will be increased by Pensions Increase from the date at the end of the averaging period used for working out APP, i.e. normally from the day after the firefighter's last day of service. The spouse's pension will continue to be increased in this way each year. See Annexe 10 for more information about Pensions Increase and how it is applied.

For the first 13 weeks following the firefighter's death, the spouse's special pension is increased to a rate which, together with any children's allowances, is not less than the firefighter's weekly pensionable pay – see Rule E8.

More examples follow . . .

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Spouse's or civil partner's special award

Example of assessment of spouse's special award (continued)

Example B

A former firefighter who retired with an ordinary pension dies as a result of an infirmity which was occasioned by a qualifying injury. At retirement his average pensionable pay (APP) was £15,291.

His spouse will be entitled to a spouse's special award even though he was not receiving an injury-derived award. The spouse's award will be a special pension and a special award gratuity. Where a special award is paid after a firefighter's retirement the gratuity payable to the spouse is reduced by the amount of injury gratuity paid to the firefighter. In this case, because the firefighter did not receive an injury award, no gratuity is deductible from the spouse's gratuity.

Spouse's special pension

Formula: $45\% \times \text{APP}$

Spouse's special pension will be:

$$\begin{aligned} &45\% \times £15,291.00 \\ &= £6,880.95 \text{ a year} \end{aligned}$$

Spouse's special award gratuity

Formula: $25\% \times \text{APP}$

less any injury gratuity paid to the firefighter.

Spouse's special award gratuity will be :

$$\begin{aligned} &25\% \times £15,291.00 \text{ less £nil} \\ &= £3,822.75 \end{aligned}$$

The spouse's special pension above will be increased by Pensions Increase from the date at the end of the averaging period used for working out APP, i.e. normally from the day after the firefighter's last day of service. The spouse's pension will continue to be increased in this way each year. See Annexe 10 for more information about Pensions Increase and how it is applied.

For the first 13 weeks following the firefighter's death, the spouse's special pension is increased to a rate which, together with any children's allowances, is not less than the firefighter's weekly rate of pension. However, in some circumstances, for example where the firefighter did not retire on injury grounds and did not have a great deal of service, the spouse's special award pension could be greater than the former firefighter's own pension. The 13-week "top-up" would not then apply. See Rule E8.

Another example follows . . .

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Example of assessment of spouse's special award (continued)

Example C

A former firefighter who retired with an ill-health pension and an injury award dies as a result of the injury which entitled him to those benefits. At retirement his average pensionable pay (APP) was £27,500. On retirement he received an injury gratuity of £10,312.50.

His spouse will be entitled to a spouse's special award. She will receive a special pension but, in this example, because the firefighter received a fairly high injury gratuity, the special award gratuity she would otherwise be entitled to is reduced to nil.

Spouse's special pension

Formula: $45\% \times \text{APP}$

Spouse's special pension will be:

$$\begin{aligned} &45\% \times £27,500.00 \\ &= £12,375.00 \text{ a year} \end{aligned}$$

Spouse's special award gratuity

Formula: $25\% \times \text{APP}$

less any injury gratuity paid to the firefighter.

Spouse's special award gratuity will be :

$$\begin{aligned} &25\% \times £27,500.00 \text{ less } £10,312.50 = £6,875.00 \text{ less } £10,312.50 \\ &= £\text{nil} \end{aligned}$$

The spouse's special pension above will be increased by Pensions Increase from the date at the end of the averaging period used for working out APP, i.e. normally from the day after the firefighter's last day of service. The spouse's pension will continue to be increased in this way each year. See Annexe 10 for more information about Pensions Increase and how it is applied.

For the first 13 weeks following the firefighter's death, the spouse's special pension is increased to a rate which, together with any children's allowances, is not less than the firefighter's weekly rate of pension. However, in some circumstances the spouse's special award pension could be greater than the former firefighter's own pension. The 13-week "top-up" would not then apply. See Rule E8.

Another example follows . . .

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Example of assessment of spouse's special award (continued)

Example D

Assume the firefighter in Example A had worked part-time (half-time) throughout her service (3 years 159 days) and her average pensionable pay was £8,000.

Spouse's special pension

The spouse's special pension will be based on the average pensionable pay the firefighter would have received if whole-time (£16,000) and then pro rated in accordance with the hours worked over her service as a proportion of whole-time.

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

where $A = 45\% \times £16,000$
 $B = 0$
 $C = 1 \text{ year } 262 \text{ days } (1.7178)$
 $D = 3 \text{ years } 159 \text{ days } (3.4356)$

Spouse's special pension will be:

$$(45\% \times £16,000.00) \times \frac{(0 + 1.7178)}{3.4356}$$

= £3,600.00 a year

Spouse's special award gratuity

Although the spouse's special pension is based on a percentage of APP without regard to length of service, to work out the special award gratuity a calculation of notional ill-health pension as at the date of death must be made. Because the firefighter has less than 5 years' service, there would be no "ill-health enhancement" of additional 60ths in the calculation. The ill-health pension is assessed as if the firefighter had been whole-time throughout her service and then pro rated in accordance with the hours worked over her service as a proportion of whole-time. The gratuity, however, is based on her actual (half-time) average pensionable pay

Formula: $25\% \times \text{APP}$
 plus greater of –
 $1 \times \text{APP}$
 or
 $2.25 \times [\text{notional ill-health pension (whole-time)} \times \frac{(B + C)}{D}]$

Spouse's special award gratuity will be :

$25\% \times £8,000$	=	£ 2,000.00
plus greater of –		
$1 \times £8,000.00$	=	£8,000.00
or		
$2.25 \times \frac{3 \ 159/365}{60} \times £16,000.00 \times \frac{1.7178}{3.4356}$	=	£1,030.68
therefore special award gratuity will be		<u>£10,000.00</u>

The spouse's special pension above will be increased by Pensions Increase from the date at the end of the averaging period used for working out APP, i.e. normally from the day after the firefighter's last day of service. The spouse's pension will continue to be increased in this way each year. See Annexe 10 for more information about Pensions Increase and how it is applied.

For the first 13 weeks following the firefighter's death, the spouse's special pension is increased to a rate which, together with any children's allowances, is not less than the firefighter's weekly pensionable pay – see Rule E8.

RULE C2 ARCHIVED

Spouse's or civil partner's special award

Example of assessment of civil partner's special award

Example A

A firefighter dies in service as a result of a qualifying injury. At the date of death he had 27 years of service, 20 of which were after 5 April 1988 and his average pensionable pay (APP) was £32,000.

His civil partner will be entitled to a special pension and a special award gratuity. Although the civil partner's pension is based on a percentage of APP without regard to the total length of service or the service after 5 April 1988, to work out the special award gratuity a calculation of notional ill-health pension as at the date of death must be made. In this case, because the firefighter had 27 years of service, the ill-health enhancement would take the pension up to the maximum of 40/60ths of pensionable pay. A spouse's pension would be half of this; a civil partner's pension will be the spouse's pension pro rated by reference to service after 5 April 1988 only.

Civil partner's special pension

Formula: $45\% \times \text{APP}$

Civil partner's special pension will be:

$$\begin{aligned} &45\% \times \text{£}32,000.00 \\ &= \text{£}14,400 \text{ a year} \end{aligned}$$

Civil partner's special award gratuity

Formula: $25\% \times \text{APP}$

plus greater of –

$$1 \times \text{APP}$$

or

$$2.25 \times \frac{\text{service}}{60} \times \frac{\text{service after 5.4.1988}}{\text{total service}} \times \text{APP}$$

Civil partner's special award gratuity will be :

$$25\% \times \text{£}32,000.00 = \text{£} 8,000.00$$

plus greater of –

$$1 \times \text{£}32,000.00 = \text{£}32,000.00:$$

or

$$2.25 \times \frac{40}{60} \times \frac{20}{27} \times \text{£}32,000.00 = \text{£}35,555.56 \quad \text{£}35,555.56$$

therefore special award gratuity will be £43,555.56

The civil partner's special pension above will be increased by Pensions Increase from the date at the end of the averaging period used for working out APP, i.e. normally from the day after the firefighter's last day of service. The civil partner's pension will continue to be increased in this way each year. See Annexe 10 for more information about Pensions Increase and how it is applied.

For the first 13 weeks following the firefighter's death, the civil partner's special pension is increased to a rate which, together with any children's allowances, is not less than the firefighter's weekly pensionable pay – see Rule E8.