

RULE C3

Spouse's or civil partner's augmented award

Rule C3 sets out the terms of eligibility for a spouse's or civil partner's augmented award where a firefighter or former firefighter dies from the effects of a qualifying injury in "heroic" circumstances.
Part II of Schedule 3, modified by Rule C3(4), 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 C3 as it applied up to 31 March 2006 appears on the following pages as "archived" material.

RULE C3 ARCHIVED

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Eligibility for spouse's or civil partner's augmented award

Rule C3(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, and
- one of the conditions specified in Rule C3(2) is satisfied,

your widow(er) or civil partner will be entitled to a spouse's or civil partner's augmented award under this Rule.

The conditions specified in Rule C3(2) are that –

- (a) you received the injury in the execution of duties where your immediate purpose was to save the life of another person or prevent the loss of human life, in circumstances where there was an intrinsic likelihood that you would receive a fatal injury, or
- (b) your fire and rescue authority are of the opinion that the terms of (a) may be satisfied and that this Rule should apply, or
- (c) your fire and rescue authority are satisfied that the injury was received in circumstances where it would be inequitable if this Rule were not applied.

The augmented award is –

- an augmented pension, and
- a 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 formation of 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 two parts to the award – an augmented pension and a lump sum gratuity.

The augmented pension is calculated in accordance with Rule C3(3). This applies the formula given in Part II of Schedule 3 as used for the special pension under Rule C2 but "augmented" in line with Rule C3(4).

This means that the spouse's or civil partner's augmented pension is –

50% of the deceased's average pensionable pay*

*Average pensionable pay is explained in Rule G1.

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Rule C3 (continued)

Method of calculation (continued)

The gratuity is calculated in accordance with Rule C3(3) and (5). This allows your widow(er) or civil partner a gratuity based on the terms set out in Rule C3(5) or under the terms of Rule C2 if it would produce a higher figure.

Rule C3(5) would give your widow(er) or civil partner a gratuity equal to twice the annual pensionable pay, at the time of your death, of a person –

- employed in the role of firefighter by the London Fire and Emergency Planning Authority, and
- with 30 years' service for pay purposes.

Payment date

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

Example

Examples of the assessment of a spouse's augmented award and a civil partner's augmented award are given on pages C3-Example 1 and C3-Example 2 respectively.

Useful reference source

- FPSC 5/2005: introduction of survivor's benefits for civil partners

Points To Note

1. Because the spouse's or civil partner's augmented pension is based on a proportion of 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 under Rule C2 in the event of your death in service.
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 an injury-based award. The former firefighter must have died as a result of a qualifying injury, and in the circumstances specified in Rule C3, for an augmented award to apply.
3. A fire and rescue authority can grant an augmented award where there is a possibility that the conditions apply but it cannot be proved. They may also do so where the circumstances are just as deserving, but not specifically covered by the conditions set. They need not wait for the outcome of any criminal proceedings relating to the circumstances of a firefighter's death before granting an augmented award. In granting the award there is no need to specify the condition on which it is based.

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Rule C3 (continued)

Points To Note continued

4. If you have been retired for some time, the level of average pensionable pay used for the assessment of the augmented award may seem 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).
5. 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.
6. 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.
7. There is also a limitation on benefits in the case of a marriage or civil partnership which takes place after a firefighter has retired – see Rule C5.
8. 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.
9. 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.
10. A spouse's or civil partner's pension paid under Rule C3 is not affected by a pension sharing order issued by a court on divorce, dissolution of a 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.)
11. Provisions for part-time regular firefighters were introduced on 13 September 2004.
12. 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:

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

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Example of assessment of spouse's augmented award

Example A

A firefighter dies in service as a direct result of trying to save lives in a fire. She had 16 years 161 days of service and average pensionable pay (APP) of £20,000. The annual pensionable pay for a person in the role of firefighter who could reckon 30 years' service and employed by the London Fire and Emergency Planning Authority at that date is £21,500.

Her spouse will be entitled to an augmented award - an augmented pension and gratuity. The gratuity is based on the pay of an LFEPA firefighter unless it would be greater if assessed on special award principles. For the gratuity, account must be taken of the firefighter's notional ill-health pension as at the date of death. In this case, the ill-health pension would take into account "ill-health enhancement" of 7/60ths.

Spouse's augmented pension

Formula: $50\% \times \text{APP}$

Spouse's augmented pension will be:

$$\begin{aligned} &50\% \times £20,000.00 \\ &= £10,000.00 \text{ a year} \end{aligned}$$

Spouse's augmented gratuity

Formula: Greater of

$$\begin{aligned} &2 \times \text{current pensionable pay of LFEPA firefighter who can reckon 30 years' service, or} \\ &25\% \times \text{APP plus greater of –} \\ &\quad 1 \times \text{APP, or} \\ &\quad 2.25 \times \left[\frac{7}{60} + \frac{\text{service to 20 years}}{60} + \frac{2 \times \text{service in excess of 20 years}}{60} \right] \times \text{APP} \end{aligned}$$

Spouse's augmented award gratuity will be :

the greater of –		
2 x £21,500.00	=	£43,000.00
or		
25% x £20,000.00	=	£ 5,000.00
plus greater of –		
1 x £20,000.00	=	£20,000.00
or		
2.25 x $\left[\frac{7}{60} + \frac{16 \frac{161}{365}}{60} \right] \times £20,000.00$	=	£17,580.82
		£25,000.00

therefore special award gratuity will be £43,000.00

The spouse's augmented 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 augmented 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.

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Spouse's or civil partner's augmented award

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

Example B

A former firefighter dies very shortly after retirement as a result of an injury on duty in circumstances in which the fire and rescue authority think that an augmented award should be paid. He had retired on health grounds with 20 years of service and average pensionable pay (APP) of £17,400. He also received an injury award – the injury gratuity was £6,525. The pensionable pay of a London firefighter with 30 years' service is £18,900 at the date of the pensioner's death.

His spouse will be entitled to an augmented award – an augmented pension and gratuity. The gratuity is based on the pay of an LFEPA firefighter unless, if assessed on special award principles, it would be greater. In the case of a post-retirement award, however, this is unlikely because whereas a special gratuity has any gratuity received by the firefighter deducted from it, a spouse's augmented gratuity does not have this deduction.

Spouse's augmented pension

Formula: $50\% \times \text{APP}$

Spouse's augmented pension will be:

$$\begin{aligned} &50\% \times £17,400.00 \\ &= £8,700.00 \text{ a year} \end{aligned}$$

Spouse's augmented gratuity

Formula: Greater of

$2 \times$ current pensionable pay of LFEPA firefighter who can reckon 30 years' service, or
 $25\% \times \text{APP}$ less any injury gratuity paid to the firefighter

Spouse's augmented award gratuity will be :

the greater of –		
$2 \times £18,900.00$	=	<u>£37,800.00</u> , or
$25\% \times £17,400.00$	=	£ 4,350.00
less firefighter's injury gratuity	=	£ 6,525.00
		<u>£nil</u>

therefore augmented award gratuity will be £37,800.00

The spouse's augmented 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 augmented 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.

RULE C3 ARCHIVED

Spouse's or civil partner's augmented award

Example of assessment of civil partner's augmented award

Example A

A firefighter dies in service as a direct result of trying to save lives in a fire. At the date of death she had 27 years of service, 20 of which were after 5 April 1988. Her annual pensionable pay (APP) was £24,000. The annual pensionable pay for a person in the role of firefighter who could reckon 30 years' service and employed by the London Fire and Emergency Planning Authority at that date is £28,000.

Her civil partner will be entitled to an augmented award – an augmented pension and gratuity. The gratuity is based on the pay of an LFEPA firefighter unless it would be greater if assessed on special award principles. The special award gratuity would be based on the ill-health pension the firefighter would have received. With 27 years' service this would be based on 40/60ths of APP. It would then be pro rated having regard to the years of service after 5 April 1988 as a proportion of total service.)

Civil partner's augmented pension

Formula: $50\% \times \text{APP}$

Civil partner's augmented pension will be:

$$\begin{aligned} &50\% \times £24,000.00 \\ &= £12,000.00 \text{ a year} \end{aligned}$$

Civil partner's augmented gratuity

Formula: Greater of

$$\begin{aligned} &2 \times \text{current pensionable pay of LFEPA firefighter who can reckon 30 years' service, or} \\ &25\% \times \text{APP plus greater of –} \\ &1 \times \text{APP, or} \\ &2.25 \times \text{firefighter's ill-health pension} \times \frac{\text{service after 5.4.88}}{\text{total service}} \end{aligned}$$

Civil partner's augmented award gratuity will be :

the greater of –		
2 x £28,000.00	=	£56,000.00
or		
25% x £24,000.00	=	£ 6,000.00
plus greater of –		
1 x £24,000.00	=	£24,000.00
or		
2.25 x $\frac{40}{60}$ x £24,000 x $\frac{20}{27}$	=	£26,666.67
		<u>£32,666.67</u>
therefore special award gratuity will be <u>£56,000.00</u>		

The civil partner's augmented 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 augmented 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.