

# RULE D1

## Child's ordinary allowance

**Rule D1 sets out the terms of eligibility for a child's ordinary allowance.  
Part I of Schedule 4 explains how a child's ordinary allowance should be calculated.**

### **Eligibility for a child's ordinary pension**

Rule D1(1) states that if you are or were a regular firefighter with a child and you die –

- (a) in service,
- (b) while receiving an ordinary, short service or ill-health pension,
- (c) while receiving an injury pension (under the FPS before 1 April 2006 or under the Firefighters' Compensation Scheme on and from that date) if this was originally accompanied by an ill-health pension which is no longer in payment, or
- (d) as a result of an injury which caused you to retire from the service with an ill-health gratuity (not an injury award) and you have not subsequently been re-employed as a regular firefighter

then your child will be entitled to an ordinary allowance.

Most cases will be covered by (a) and (b).

It is most unlikely that (c) would apply – an ill-health pension will not normally cease if an injury pension continues in payment except in the case of forfeiture.

And (d) would only apply if you retired before 6 April 1988 with an ill-health gratuity (having been disabled when you had served for at least 3, but less than 5, years' service and not as a result of a qualifying injury), and then, without serving again, died of the same cause. However if you had meanwhile repaid your gratuity so that a transfer value could be paid to a new employer, there would be no later entitlement to a child's allowance.

### **Exclusions**

If you die in service and at that time an election not to pay contributions under Rule G3 was in force (i.e. you had opted out of the FPS and not opted back in again at the time of death) then under Rule D1(1)(a) your child would not be eligible for an ordinary allowance.

### **Limitations**

See Rule D5 for age limits and the adjustment or limitation of benefits.

See Schedule 1 Part I for the definition of "child" (repeated in "Points To Note", Point 1 below).

See pages D Gen 1 for the terms of calculation if you have any service before 1 April 1972.

### **Method of calculation: firefighter with all service after 31 March 1972**

Rule D1(2) refers to Part I of Schedule 4 for the method of calculation.

Paragraph 3 of Part I of Schedule 4 says that instead of having an ordinary allowance calculated on the standard principles (which follow), an election can be made for a flat rate award as set out in Rule E9. A flat rate award was the standard award for a child under early versions of the FPS. However, it would be most unusual nowadays for it to produce a greater sum than that calculated on the standard principles of Part I of Schedule 4 (see below).

<b>Rule D1 (continued)</b>
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**Method of calculation: firefighter with all service after 31 March 1972 (continued)**

Under Part I of Schedule 4 the sum payable will depend upon whether –

- one of the child(ren)'s parents is still alive, and
- the number of children entitled to an ordinary allowance.

**Where one of the child(ren)'s parents is still alive –**

- if there are less than 3 children, each child would be entitled to 18.75% of the base pension\*
- if there are 3 or more children, each child would be entitled to 37.5% of the base pension\*, divided by the number of children.

For example:

- one child would get 18.75%
  - two children would get 18.75% each
  - three children would get 37.5% divided by 3, i.e. 12.5% each,
  - four children would get 37.5% divided by 4, i.e. 9.375% each
- and so on.

**Where neither of the child(ren)'s parents is still alive –**

- if there are less than 3 children, each child would be entitled to 25% of the base pension\*
- if there are 3 or more children, each child would be entitled to 50% of the base pension\*, divided by the number of children.

For example:

- one child would get 25%
  - two children would get 25% each
  - three children would get 50% divided by 3, i.e. 16.66% each
  - four children would get 50% divided by 4, i.e. 12.50% each
- and so on.

\*The "base pension" is –

- (a) in the case of death in service – the higher tier ill-health award to which you would have been entitled if you had retired on health grounds just before you died
- (b) in the case of death while receiving an ordinary, short service or ill-health pension – that pension
- (c) in the case where you were receiving an injury pension with an ill-health pension which subsequently stopped – that ill-health pension (not the injury pension)
- (d) in the case where you retired with an ill-health gratuity in consequence of an injury – the ill-health pension you would have received, had you been entitled to receive one.

<b>Rule D1 (continued)</b>
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**Method of calculation: firefighter with all service after 31 March 1972 (continued)**

In all cases the "base pension" must disregard deductions in respect of –

- commutation (Rule B7)
- allocation (Rule B9)
- National Insurance modification (Part VII of Schedule 2) – generally firefighters with service before 1 April 1980
- uprating of widow's pension (Part VIII of Schedule 2) – see pages B Gen 1 if you have service before 1 April 1972 to which this would apply.

Because, under Rule B6, any reduction in a firefighter's pension required by a pension sharing order issued by a court on divorce, dissolution of civil partnership, or annulment, must be disregarded for purposes of children's benefits; the "base pension" must be based on the pension the firefighter would have received had the pension sharing order not been made.

Under paragraph 2(1) of Part I of Schedule 4, the total of your widow(er)'s or civil partner's ordinary pension and children's ordinary allowances (other than flat rate awards) may not be more than any pension you were receiving just before you died. For this purpose –

- any Pensions Increase payable on your dependants' benefits or your own pension is also ignored, because the reference to these awards is to them as payable under the FPS. Pensions Increase is not payable under the FPS, but under the Pensions Increase Acts and Orders.
- the only reductions in your pension which will be ignored are those under Parts VII and VIII of Schedule 2 (i.e. for National Insurance modification and for uprating of widow's pensions). So if, for instance, you commute or allocate part of your pension, your widow(er)'s or civil partner's pension and children's pension and allowances together may not exceed your pension after your commutation or allocation.

However, a child's allowance should not be reduced under this provision if the reason for its potential reduction is a reduction in the firefighter's own pension entitlement on account of a pension sharing order issued by a court on divorce dissolution of civil partnership, or annulment.

**Effect of part-time service**

If the firefighter had a period of part-time service, Schedule 4 Part I, paragraph 1(4) requires that the "base pension" should be assessed taking account of Schedule 2 Part VIA (calculation of awards for part-time service). The pages of the Commentary which cover Rule B13 explain this Part of Schedule 2. This means that the child's ordinary allowance will be a percentage of a firefighter's pro rated pension.

<b>Rule D1 (continued)</b>
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<b>Tax</b>	Dependants' pension benefits are not tested for Lifetime Allowance purposes following the death of a pension scheme member, but the aggregate of dependants' scheme pensions must not exceed the amount of the member's scheme pension at the date of his/her death.
<b>Payment</b>	Payment will be made in accordance with Rules L3 and L5.
<b>Example</b>	Examples of the assessment of a child's ordinary allowance are given on pages D1-Example 1.
<b>Useful reference source</b>	<ul style="list-style-type: none"><li>• FSC 8/1989: explains the increase in child's ordinary allowance from 12.5% to 18.75% for a single child with effect from 16 March 1988</li><li>• FSC 30/2004: introduction of pension provisions for part-time regular firefighters</li><li>• FPSC 5/2005: introduction of survivor's benefits for civil partners</li></ul>

<b>Points To Note</b>
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1. A "child" is defined by Part I of Schedule 1 as a legitimate or illegitimate child, step-child or adopted child of a person who dies. It can also mean any other child who was –
  - substantially dependent on that person, and either
  - related to that person, or
  - the child of that person's spouse or civil partner.
2. If you have any service before 1 April 1972 refer to pages D Gen 2 for details of the method of calculation.
3. A table summarising the maximum amounts of children's allowances is given at page D Gen 1-Chart 1.
4. Your children may be eligible for an ordinary allowance however short your length of pensionable service. (In contrast, a spouse's or civil partner's ordinary pension is payable only after 2 years' pensionable service – see the explanation of Rule C1).
5. If you should die as a result of a qualifying injury, your children will normally receive special allowances (under Rule D2 before 1 April 2006, under the Firefighters' Compensation Scheme on or after that date) instead of ordinary allowances.
6. Children's allowances are taken into account when assessing the level of 13 weeks' "top-up" payment to be paid to a widow(er) or civil partner under Rule E8. If there is no surviving spouse or civil partner, or the surviving spouse or civil partner was not entitled to a pension payable for 13 weeks, then the children's allowance will be "topped-up" under Rule E8.

<b>Rule D1 (continued)</b>
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<b>Points To Note continued</b>
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7. The basic amount of a child's ordinary allowance may be reduced if the child is in full-time training and being paid above a certain level (see Rule D5).
8. A table showing age and eligibility for children's awards is given at page D5-Chart 1.
9. Children's allowances may need to be recalculated if –
  - their remaining parent dies,
  - the number of eligible children changes, or
  - there is a change in the amount of an allowance payable to a child in training (see Rule D5).
10. Flat rate allowances (unlimited in number) will be paid to your children for any periods for which they are more favourable. This is likely to happen only if –
  - your service was very short, or
  - there are several eligible children so that the total group of flat rate allowances would be greater than the group maximum (see the table on page D Gen 1-Chart 1) but see "Tax" above for limits imposed by HM Revenue and Customs.
11. An "earmarking" order applied to the firefighter's own pension would not affect the allowance (see Annexe 14).
12. Pension provisions for part-time regular firefighters were introduced on 13 September 2004.
13. Benefits for surviving civil partners were introduced into the FPS on 5 December 2005 but are based on service after 5 April 1988 only.

# RULE D1

## Child's ordinary allowance

### Example of assessment of child's ordinary allowance

#### Example A

A firefighter dies in service, not as a result of a qualifying injury, and leaves a widower and 2 children under age 16. At her date of death, she has 14 years 111 days of service and her average pensionable pay (APP) is £25,000.

Each child will be entitled to a child's ordinary allowance based on a percentage of their mother's notional higher tier ill-health award. Because one of the children's parents is alive a single child's allowance will be 18.75% of the firefighter's pensions, the maximum total allowance will be 37.5% of the firefighter's pensions.

Formula: Because the firefighter had at least 13 years' service, the notional higher tier ill-health award is the total of the lower tier pension and the enhancement of the higher tier ill-health pension. The formula for one child's allowance is –

$$18.75\% \times \left[ \frac{7}{60} + \frac{\text{service to 20 years}}{60} + \frac{2 \times \text{service in excess of 20 years}}{60} \right] \times \text{APP}$$

One child's ordinary allowance will be :

$$18.75\% \times \left[ \frac{7}{60} + \frac{14\ 111/365}{60} \right] \times £25,000.00 = 18.75\% \times \frac{21.3041}{60} \times £25,000.00$$
$$= £1,664.38 \text{ a year}$$

Each child will receive £1,664.38 a year for as long as they remain eligible for a child's allowance

#### Example B

Assume the firefighter in Example A had 4 eligible children.

Each child will be entitled to a child's ordinary allowance based on a percentage of their mother's notional higher tier ill-health award. Because one of the children's parents is alive a single child's allowance will be 18.75% of the firefighter's pensions, the maximum total allowance will be 37.5% of the firefighter's pensions.

Formula: The formula for one child's ordinary allowance is as in Example A.

The formula for the maximum total of child's ordinary allowances is –

$$37.5\% \times \left[ \frac{7}{60} + \frac{\text{service to 20 years}}{60} + \frac{2 \times \text{service in excess of 20 years}}{60} \right] \times \text{APP}$$

One child's allowance as in Example A is £1,664.38 a year

Maximum total of child's ordinary allowances will be :

$$37.5\% \times \left[ \frac{7}{60} + \frac{14\ 111/365}{60} \right] \times £25,000.00 = 37.5\% \times \frac{21.3041}{60} \times £25,000.00$$
$$= £3,328.77 \text{ a year}$$

The maximum total is apportioned equally between the number of eligible children until just one remains:

- if there are 4 eligible children, each child will receive an allowance of £3,328.77/4 = £832.19 a year
- if there are 3 eligible children, each child will receive an allowance of £3,328.77/3 = £1,109.59 a year
- if there are 2 eligible children, each child will receive an allowance of £3,328.77/2 = £1,664.38 a year
- if there is only one eligible child, he or she will receive an allowance of £1,664.38 a year

Each child's allowance 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 allowance will continue to increase in this way each year for so long as it is payable. See Annexe 10 for more information about Pensions Increase and how it is applied.

## RULE D1 Child's ordinary allowance

### Example of assessment of child's ordinary allowance (continued)

#### Example C

*A former firefighter dies after retirement. He was receiving an ordinary pension which, before commutation, allocation and Pensions Increase was £24,000 a year. NI modification and widow's pension uprating did not apply. He was a widower and has 2 eligible children. The children do not have another living parent.*

Each child will be entitled to a child's ordinary allowance based on a percentage of their father's ordinary pension. Because neither of the children's parents is alive, a single child's allowance will be 25% of the former firefighter's pension, the maximum total allowance will be 50% of the former firefighter's pension.

Formula: One child's allowance is –

$$25\% \times \text{the former firefighter's ordinary pension before commutation, allocation and Pensions Increase}$$

Child's ordinary allowance will be :

$$\begin{aligned} &25\% \times £24,000.00 \\ &= £6,000.00 \text{ a year} \end{aligned}$$

Each child will receive £6,000.00 a year for as long as they remain eligible for a child's allowance

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#### Example D

*Assume the firefighter in Example C had 4 eligible children.*

Each child will be entitled to a child's ordinary allowance based on a percentage of their father's ordinary pension. Because neither of the children's parents is alive, a single child's allowance will be 25% of the former firefighter's pension, the maximum total allowance will be 50% of the former firefighter's pension.

Formula: The formula for one child's ordinary allowance is as in Example C.

The formula for the maximum total of child's ordinary allowances is –

$$50\% \times \text{former firefighter's ordinary pension before commutation, allocation and Pensions Increase}$$

One child's ordinary allowance as in Example C is £6,000.00 a year

Maximum total of child's ordinary allowances will be :

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

The maximum total is apportioned equally between the number of eligible children until just one remains:

- if there are 4 eligible children, each child will receive an allowance of  $£12,000.00/4 = £3,000.00$  a year
  - if there are 3 eligible children, each child will receive an allowance of  $£12,000.00/3 = £4,000.00$  a year
  - if there are 2 eligible children, each child will receive an allowance of  $£6,000.00$  a year
  - if there is only one eligible child, he or she will receive an allowance of  $£6,000.00$  a year
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Each child's allowance 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 allowance will continue to increase in this way each year for so long as it is payable. See Annexe 10 for more information about Pensions Increase and how it is applied.

Also, because no widow's pension is payable, for the first 13 weeks following their father's death the children's allowances would be increased to a total rate which is not less than the firefighter's weekly rate of pension – see Rule E8.

## RULE D1 Child's ordinary allowance

**Example of assessment of child's ordinary allowance (continued)**

### Example E

*Assume the firefighter in Example A had worked part-time (half-time) throughout her service (14 years 111 days). The base pension would be the total pro rated lower tier and higher tier ill-health pensions. Her average pensionable pay is £12,500. The whole-time equivalent average pensionable pay is £25,000*

Each child will be entitled to a child's ordinary allowance based on a percentage of their mother's notional higher tier ill-health award. Because one of the children's parents is alive a single child's allowance will be 18.75% of the firefighter's pensions, the maximum total allowance will be 37.5% of the firefighter's pensions.

Formula: The total of whole-time equivalent lower and higher tier pensions in Example A is:

$$\frac{7}{60} + \frac{14 \frac{111}{365}}{60} \times £25,000.00 = \frac{21.3041}{60} \times £25,000.00$$
$$= £8,876.71 \text{ a year}$$

Because the firefighter has worked half time throughout her service, the whole-time total would be pro rated in accordance with the formula in Schedule 2 Part VIA:

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

$$\begin{aligned} A &= £8,876.71 \\ B &= 0 \\ C &= 7.1520 \\ D &= 14.3041 \end{aligned}$$

The base pension is assessed as:

$$£8,876.71 \times \frac{(0 + 7.1520)}{14.3041}$$
$$= £4,438.32 \text{ a year}$$

One child's ordinary allowance is:

$$18.75\% \times £4,438.32$$
$$= £832.19 \text{ a year}$$

Each child will receive £832.19 a year for as long as they remain eligible for a child's allowance

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Each child's allowance 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 allowance will continue to increase in this way each year for so long as it is payable. See Annexe 10 for more information about Pensions Increase and how it is applied.