

## **RULE D3**

### **Child's special gratuity**

**Rule D3 explains that if a firefighter or former firefighter dies in circumstances where a spouse's or civil partner's augmented award would have been paid, but does not leave a spouse or civil partner, a special gratuity is payable to his or her child(ren).**

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

The explanation of Rule D3 as it applied up to 31 March 2006 appears on the following pages as "archived" material.

## RULE D3 ARCHIVED

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#### Eligibility for a child's special gratuity

Rule D3(1) and (2) say 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
- you leave a child but not a spouse or civil partner entitled to a gratuity under Rule C2, and
- one of the conditions specified in Rule C3(2) is satisfied,

that child will be entitled to a gratuity in addition to the child's special allowance.

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 try 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.

#### Exclusions

None – this Rule applies to the child of an FPS member **or** optant-out.

#### Limitations

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

See Schedule 1 for the definition of “child” (repeated in “Points To Note”, Point 1 below).

If a pension sharing order has been made by a court following divorce, dissolution of civil partnership, or annulment, this does **not** affect the amount payable to eligible children (see Rule B6).

#### Method of calculation

Rule D3(3) explains that where there is only one child entitled to the gratuity it will be the amount referred to in Rule C3(5); where there are 2 or more children, each child would receive a sum equal to the amount referred to in Rule C3(5) divided by the number of eligible children.

The amount referred to in Rule C3(5) is a sum equal to twice the annual pensionable pay 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.

**Rule D3 (continued)**

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

**Example**                      Examples of the assessment of a child's special gratuity are given on page D3-Example 1.

**Useful reference source**      • FPSC 5/2005: introduction of survivor's benefit for civil partners

**Points To Note**

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 die in retirement, the gratuity is based on a serving firefighter's pay **at the date of your death**, so that there is no gap between the effective "beginning date" and "payable date" of the gratuity for Pensions Increase purposes. In other words, because the gratuity is based on current rates of pay, it does not attract Pensions Increase. (Pensions Increase is explained at Annexe 10.)
3. A table summarising the maximum amounts of children's allowances is given at page D Gen 1-Chart 1.
4. A table summarising age and eligibility for children's awards is given at page D5-Chart 1
5. The amount of a child's special gratuity will not be affected by a pension sharing order issued by a court on divorce, dissolution of civil partnership, annulment, or an "earmarking" order issued on divorce, dissolution of civil partnership, annulment, or judicial separation (see Annexe 14).

**Example of assessment of child's special gratuity**

**Example A**

*A firefighter dies in service as a result of a qualifying injury received trying to save someone in a situation where her own life was seriously at risk. She was a widow with one eligible child. At the time of her death, the pay of a London firefighter with 30 years' service is £20,000.*

Because of the circumstances of death and because the firefighter does not leave a spouse entitled to a gratuity under Rule C2/C3, the child will be entitled to a special gratuity in addition to his child's special allowance.

Formula:  $2 \times \text{pay of London firefighter with 30 years' service}$

Child's special gratuity will be:

$$\begin{aligned} & 2 \times £20,000.00 \\ & = £40,000.00 \end{aligned}$$

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**Example B**

*A firefighter dies in service having sustained a qualifying injury in circumstances where the fire and rescue authority are of the opinion that the conditions in Rule C3(2) are satisfied. The firefighter was a widower with 3 eligible children. At the date of death the pay of a London firefighter with 30 years' service is £21,500.*

Because of the circumstances of death and because the firefighter does not leave a spouse entitled to a gratuity, under Rule C2/C3 the children will be entitled to a special gratuity in addition to their special allowances. The amount each child will receive will be the amount of gratuity divided equally between them.

Formula:  $\frac{2 \times \text{pay of London firefighter with 30 years' service}}{\text{number of eligible children}}$

Child's special gratuity will be:

$$\begin{aligned} & \frac{2 \times £21,500.00}{3} \\ & = £14,333.33 \text{ for each of the 3 children} \end{aligned}$$

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