

Increase of pensions and allowances during first 13 weeks

Rule E8 explains how widow(er)'s or civil partner's pensions and children's allowances can be topped up to the level of a firefighter's pay or pension for the first 13 weeks following death.

Eligibility for 13-week payment

Rule E8(1) says that the provisions of Rule E8 apply to allow a "top-up" payment for the first 13 weeks after you die, if immediately before your death you were –

- serving as a regular firefighter, or
- receiving a pension.

Rule E8(1) allows the additional payment to be made to a spouse or civil partner who, on your death, is entitled to –

- an ordinary pension under Rule C1, or
- an accrued pension under Rule C4.

If there is no surviving spouse or civil partner, or he/she is not entitled to a pension payable for 13 weeks, Rule E8(5) allows the additional payment to be made in respect of a child's –

- ordinary allowance under Rule D1, or
- accrued allowance under Rule D4.

For example, if you have a spouse and children eligible to receive a pension or allowance but your spouse survives you for only 4 weeks after your death, the additional payment would be made in respect of your spouse's benefits for the first 4 weeks and in respect of your children's allowance for the remaining 9.

Exclusions

Because this is a "top-up" payment to be added to a pension or allowance paid to your widow(er) or civil partner and/or children, this award is not payable where no such entitlement exists, e.g. in the case of an optant-out who has no deferred pension entitlement.

Amount of increase

Rule E8(2) and (3) says that the "top-up" payment is a sum which when added to –

- any spouse's or civil partner's pension* plus Pensions Increase, and
- children's allowances* plus Pensions Increase,

would give a total amount equivalent to your –

- weekly pensionable pay immediately before death (death in service), or
- weekly pension plus Pensions Increase (death while receiving pension).

* This includes special and augmented pensions and allowances under the FPS (before 1 April 2006) and the Firefighters' Compensation Scheme (on or after 1 April 2006).

Increase of pensions and allowances during first 13 weeks

Rule E8 (continued)

Amount of increase (continued)	<p>The “top-up” payment is paid for the first 13 weeks following your death.</p> <p>In other words, the total amount of widow(er)’s or civil partner’s and children’s pensions/allowances is topped up so that for the first 13 weeks the total family income from the FPS is equivalent to what it was before you died.</p> <p>In fact, in some circumstances it could be slightly more. This is because if you were in receipt of pension when you died, under Rule E8(4), when assessing the amount of “top-up”, any reduction in your own pension because you had elected to improve widow’s benefits in respect of service before 1 April 1972 (under Part VIII of Schedule 2) will be ignored.</p> <p>If you have retired and your pension has been reduced because of a pension sharing order issued by a court on divorce or annulment of marriage or dissolution of civil partnership, where the “top-up” pension is to be made to the spouse or civil partner it is to the reduced level of your pension that the “top-up” payment would be made.</p>
Terms which apply to children	<p>Rule E8(7) prevents a children’s allowance from being increased while the 13-week payment is made to a spouse or civil partner. This not only prevents a double 13-week payment but directs that the “top-up” element is paid to the widow(er) or civil partner.</p> <p>Rule E8(6) allows the “top-up” payment to be applied to a child’s allowance where applicable. If there is more than one child’s allowance in payment, it requires that the “top-up” element should be divided by the number of allowances. So each child would get an equal portion of the top-up.</p>
Effect of part-time service	<p>If the firefighter is part-time at the date of death, the pensionable pay to which benefits will be "topped-up" will be the actual (part-time) rate of pay.</p>
Payment	<p>Apart from the specific terms of payment contained in Rule E8 itself, the terms of Rules L3 and L5 would apply.</p>
Example	<p>An example of how the 13-week payment is assessed is given on pages E8-Example 1.</p>
Useful reference source	<ul style="list-style-type: none"> • FSC 30/2004: introduction of pension provisions for part-time regular firefighters • FPSC 5/2005: introduction of survivor's benefits for civil partners

Increase of pensions and allowances during first 13 weeks**Rule E8 (continued)****Points To Note**

1. The provisions of this Rule do not apply in the case of awards under Rules C6 (spouse's or civil partner's requisite benefit and temporary pension) or C7 (spouse's or civil partner's award where no other award payable). This is because under each of these rules entitlement to a temporary pension for 13 weeks calculated in a similar manner can already arise. If they were included here under Rule E8 it would result in a double payment.
2. Nor does the provision apply in respect of a spouse's or civil partner's requisite benefit pension under Rule C8 for a widow(er) or civil partner living apart from the deceased and entitled to receive no money on his/her death.
3. The purpose of this provision is to maintain the level of family income for the first 13 weeks after your death, so as to ease the initial financial strain. It is for this reason that you are not treated as receiving a pension if your only pension entitlement is a deferred pension not yet in payment because you are under age 60.
4. To work out the weekly rate of a pension, look to the definition in Schedule 1 Part I. This says that the weekly rate of a pension is its amount divided by 52 1/6th.
5. In some circumstances the total of spouse's or civil partner's pension and children's allowances might be higher than your rate of pension when you died, particularly if you were under age 55 and not yet entitled to receive Pensions Increase. Widow(er)'s, civil partner's and children's pensions and allowances under Parts C and D of the FPS receive Pensions Increase calculated from the date you ceased to serve, immediately they come into payment. In such a case the higher award(s) under Part C or D or both would be paid without any "top-up".
6. It may also be that if a Pensions Increase date falls within the 13-week period, the value of the increased widow(er)'s or civil partner's and children's benefits would exceed the 13-week payment otherwise due. (The 13-week payment itself would not attract Pensions Increase but the widow(er)'s, civil partner's and children's pensions would.) In such a case the higher total of widow(er)'s or civil partner's and children's awards would be paid rather than the lower amount based on your pension.
7. Where a child's allowance is liable to be reduced or extinguished under paragraph 2 of Part IV of Schedule 4 (because the child is in vocational training and is being paid more than the specified rate) this reduction or extinction will not apply until the end of the 13-week period, if the child is entitled to an increased allowance under this Rule.
8. If a firefighter has retired and is entitled to a reduced pension because of a pension sharing order issued by a court on divorce, dissolution of civil partnership, or annulment, where the "top-up" payment is to be made to a spouse or civil partner, the "top-up" will be based on that reduced pension. If the "top-up" payment is to be made to a child or children, the "top-up" will be to the level of pension that would have been payable had the pension sharing order not applied.

Increase of pensions and allowances during first 13 weeks**Rule E8 (continued)****Points To Note continued**

9. If, on divorce, dissolution of civil partnership, annulment or judicial separation, an “earmarking” order had been issued by the court, it will be the full amount of the firefighter’s pension (before the application of the “earmarking” order) on which the “top up” payment will be based, whether the “top up” payment is made to a child or children or the spouse or civil partner.
10. Pension provisions for part-time regular firefighters were introduced on 13 September 2004.
11. Benefits for surviving civil partners were introduced into the FPS on 5 December 2005 but are based on service after 5 April 1988 only.
12. Before 1 April 2006, Rule E8(1) and (5) also applied where the surviving spouse or civil partner would have been entitled to a special or augmented pension or a child would have been entitled to a special allowance. With effect from 1 April 2006 injury provisions were transferred from the FPS to the Firefighters' Compensation Scheme ("FCS") and so this reference was removed from the FPS at that date. However, account must still be taken of any injury-based pension under the FPS (before 1 April 2006) or the FCS (on or after 1 April 2006) when determining the amount of "top-up". For this purpose any reductions made to the level of the injury pension to take account of certain DWP benefits can be ignored. So if your injury pension had not been paid to you because the level of DWP awards exceeded the amount otherwise due, the 13-week payment to your spouse or civil partner or children would nevertheless take the full injury pension into account.

RULE E8

Increase of pensions and allowances during first 13 weeks

Example of increase in pensions and allowances following (former) firefighter's death

Example A

The spouse of a firefighter who dies in service is entitled to an ordinary pension of £5,916.03 a year. The firefighter had no eligible children and no other dependants' awards are payable. At the date of death his pensionable pay was £23,000 a year.

For the first 13 weeks following his death, his spouse will be entitled to have her pension increased to the level of the firefighter's pensionable pay.

Spouse's pension plus top-up for the first 13 weeks following the death of the firefighter:

£23,000.00 a year

Spouse's pension with effect from the 14th week following the death of the firefighter:

£5,916.03 a year

Example B

The spouse of a firefighter who dies in service is entitled to an ordinary pension of £5,916.03 a year. The firefighter has 2 eligible children who are entitled to allowances of £2,218.51 a year each. At the date of death his pensionable pay was £23,000 a year.

For the first 13 weeks following his death, his spouse will be entitled to have her pension increased to a level which, when taking the children's allowances into account, will in total be equivalent to level of the firefighter's pensionable pay.

Children's allowances for the first 13 weeks and after:

£2,218.51 a year each

Spouse's pension plus top-up for the first 13 weeks following the death of the firefighter:

£23,000.00 a year less [2 x £2,218.51] = £18,562.98 a year

Spouse's pension with effect from the 14th week following the death of the firefighter:

£5,916.03 a year

Example C

A firefighter dies in service leaving one eligible child entitled to a child's ordinary allowance of £2,958.02 a year. No other dependants' awards are payable. At the date of his death the firefighter's pensionable pay was £23,000 a year.

For the first 13 weeks following his death, his child will be entitled to have her allowance increased to the level of the firefighter's pensionable pay.

Child's allowance plus top-up for the first 13 weeks following the death of the firefighter:

£23,000.00 a year

Child's allowance with effect from the 14th week following the death of the firefighter:

£2,958.02 a year

More examples follow . . .

RULE E8

Increase of pensions and allowances during first 13 weeks

**Example of increase in pensions and allowances following (former) firefighter's death
(continued)**

Example D

In Example B above, the spouse of the firefighter survives him for only 3 weeks.

For the first 3 weeks following his death, his spouse will be entitled to have her pension increased to a level which, when taking the children's allowances into account, will in total be equivalent to level of the firefighter's pensionable pay. For the following 10 weeks the children will have their allowances increased to the level of the firefighter's pensionable pay. The increase will be divided equally between the 2 of them.

Spouse's pension plus top-up for the first 3 weeks following the death of the firefighter:

$$£23,000.00 \text{ a year less } [2 \times £2,218.51] = £18,562.98 \text{ a year}$$

Children's allowances for the first 3 weeks following the death of the firefighter = £2,218.51 a year each

Children's allowances plus top-up from the 4th to the end of the 13th week after the death of the firefighter:

$$\frac{£23,000.00}{2} = £11,500.00 \text{ a year each}$$

Children's allowances with effect from the 14th week following the death of the firefighter:

$$£2,218.51 \text{ a year each.}$$

Example E

A former firefighter dies after retirement. At the time of death she was receiving an ordinary pension of £12,500 a year including Pensions Increase. She leaves a widower entitled to a spouse's ordinary award of £6,250 a year including Pensions Increase, but no eligible children.

For the first 13 weeks following her death, her spouse will be entitled to have his pension increased to the level of the firefighter's pension at the date of death.

Spouse's pension plus top-up for the first 13 weeks following the death of the firefighter:

$$£12,500.00 \text{ a year}$$

Spouse's pension with effect from the 14th week following the death of the firefighter:

$$£6,250.00 \text{ a year}$$
