

RULE E9 Flat rate awards

Rule E9 explains how flat rate awards (the standard dependants' awards under earlier versions of the FPS) may still be paid if the widow(er), civil partner or child so chooses.

Eligibility for a flat rate award

Rule E9(1) explains the circumstances where a flat rate award may be paid. These are where a widow(er) or civil partner elects for the payment under –

- paragraph 2 of Part I of Schedule 3 (spouse's or civil partner's ordinary pension), or
- paragraph 3 of Part III of Schedule 3 (spouse's or civil partner's accrued pension)

and where a person entitled to a child's allowance elects for the payment under –

- paragraph 3 of Part I of Schedule 4 (child's ordinary allowance), or
- paragraph 3 of Part I of Schedule 4 as applied by Part III of the same Schedule (child's accrued allowance).

Amount of flat rate award

The amount of flat rate award due is fixed in relation to your rank or role at the time of death or retirement. There are 3 rates –

- (a) where you held a role no higher than Watch Manager A (or before 1 October 2004, a rank no higher than Sub-Officer)
- (b) where you held a role higher than Watch Manager A but no higher than Area Manager A (or before 1 October 2004 a rank higher than Sub-Officer but no higher than Divisional Officer (Grade 1))
- (c) where you held a role higher than Area Manager A (or before 1 October 2004 a rank higher than Divisional Officer (Grade 1))

Under Rule E9(3) there is also a small increase in –

- the spouse's or civil partner's ordinary pension if you were entitled to reckon 10 or more years' pensionable service, and
- the spouse's or civil partner's accrued pension if you ceased to serve after 5 April 1975 and would have completed 10 years' pensionable service if you had stayed on to your normal pension age (55) or, if you ceased service before 21 November 2005, to your compulsory retirement age.

The amounts payable in respect of a child will depend upon whether or not the child has a living parent. If the child does, Rule E9(4) sets the amounts due. If the child does not, Rule E9(5) sets a higher amount. In addition, the fire and rescue authority has a discretion, under Rule E9(6) to substitute an even higher amount for such period as it feels appropriate.

The various rates payable are set out on page E9-Chart 1.

Rule E9 (continued)

Effect of Pensions Increase

Before November 1980, flat rate pensions and allowances were not increased directly under the Pensions (Increase) Act 1971 but each year a Fire Service Circular would be issued to fire authorities authorising an increase to these awards as if they had been covered by the Act. The details would be applicable to all flat rate awards dating back to the Firemen's Pension Scheme Order 1948.

In November 1980, SI 1980/1615 inserted flat rate award rates into all FPS Orders from 1948 onwards and instructed that the awards were to be increased each year as if they were covered by the 1971 Act.

After this there was no need for the Department to issue annual uprating instructions.

Under Rule E9(7), the flat rate pensions are to be treated as if they are "official pensions" for purposes of the Pensions (Increase) Act 1971 with a beginning date of 30 June 1978.

When applying the relevant rate of Pensions Increase, E9(7) also instructs that the flat rate pension should be rounded up to the nearest penny!

Although Rule E9(7) implies that all increases due under Pensions Increase (Review) Orders relevant to an official pension beginning on 30 June 1978 should be applied, in fact the 1978 Pensions Increase (Review) Order (effective from 1 December 1978) should be disregarded. Those in receipt of a flat rate pension do not lose out – the levels of pension fixed in the FPS Orders take account of the increase due under the 1978 Pensions Increase (Review) Order.

Rule E9(8) requires that the first Pensions Increase (Review) Order to be applied to the flat rate amounts should be the first to be made under Section 59 of the Social Security Pensions Act 1975, as amended by Section 11 of the Social Security Act 1979. The first order to be made under Section 59 was the 1979 Pensions Increase (Review) Order which increased pensions with effect from 12 November 1979. (See "Points To Note", Point 5.)

Effect of pension sharing order

Rule E9(9) requires a spouse's flat rate award to be reduced if a pension sharing order has been issued by a court on divorce or annulment of marriage, or dissolution of civil partnership. The annual rate of pension must be reduced in the same proportion as the cash equivalent value. For example, if a spouse is entitled to, say, £594.18 under Rule E9(2)(c) and a pension sharing order required a 40% reduction in the cash equivalent value of the firefighter's benefits to provide benefits for the ex-spouse, the flat rate pension payable to the (new) spouse would be assessed as £594.18 less 40%, i.e. £594.18 - £237.67 = £356.51.

Rule E9 (continued)

Payment Like other awards under the FPS, flat rate awards are paid in accordance with Rules L3 and L5.

Useful reference source

- FSC 31/1979: explains how, in future, public service pensions would be increased as provided for in Section 59 of the Social Security Pensions Act 1975, as amended
- FSC 22/1980: accompanied SI 1980/1615 which “fixed” the basic level of flat rate pensions into all FPS Orders from 1948 onwards
- FPSC 4/2005: changes to the grading structure in the fire and rescue service – the structure based on rank was replaced by one based on role

Points To Note

1. Rule E9 has 2 functions – to fix flat rate pensions in the FPS and to provide for increases to be applied to those pensions by reference to the Pensions (Increase) Act 1971. The rates are fixed by reference to the level of flat rate awards as they were after the November 1978 increase and increased subsequently as they would be under all the Pensions Increase (Review) Orders from November 1979 onwards.
2. Flat rate awards take no account of increases under the Pensions (Increase) Act 1974. They were not affected by the deferment of pay increases during the years 1972 and 1973, the effect of which was alleviated by the 1974 Act.
3. The small increase in the spouse’s and civil partner’s flat rate award allowed under Rule E9(3) derives from a small extra benefit which was introduced in 1966 for the widows of men who opted for the widow’s one third rate pension but who died before the one third pension they had earned for their widow would have exceeded the basic flat rate.
4. Historical background:
 - Widow’s pensions at a flat rate relating to their husband’s rank were included in the Firemen’s Pension Scheme Order 1948 at a rate which has been increased in line with price increases ever since.
 - On 26 August 1966, a widow’s pension at the rate of one-third of her husband’s pension was introduced, but only where firemen elected to pay higher contributions. Widow’s flat rate awards continued for those who did not elect to pay the higher contributions and as a guaranteed minimum rate for those who did.
 - On 1 April 1972, a widow’s pension at the rate of half of her husband’s pension was introduced; all firefighters had to pay pension contributions at a rate related to 6.75% of their pensionable pay.
 - The widow’s pension at a flat rate related to her husband’s rank has, since 1972, been a minimum rate of widow’s pension in respect of men who leave the service or die in service after 1 April 1972. The same arrangements now apply in respect of widowers and, from 5 December 2005, to surviving civil partners.

The history of children’s allowances has been broadly similar.

Rule E9 (continued)

Points To Note continued

5. It is usual to apply Pensions Increase by using "multipliers" provided by HM Treasury. Depending upon the beginning date of the pension the Treasury multipliers will increase the pension by the cumulative effect of all Pensions Increases since the beginning date. To apply every individual increase on a year by year basis can be quite a laborious process. However, the problem with using the Treasury multiplier in the case of a flat rate pension is that the "beginning date" in Rule E8(7) is 30 June 1978. If this beginning date is used for choosing the appropriate multiplier, the factor given would include the 1978 Increase which is not permitted under Rule E9(8). To get around the problem, a beginning date of 28 November 1978 could be substituted. This would allow the convenience of being able to use the Treasury multiplier but would ensure that the relevant factor did not incorrectly inflate the flat rate pension by adding in a second helping of the 1978 Pensions Increase.
6. Rule E9 sets out the provisions for flat rate awards as would be paid in respect of a firefighter with service on or after 1 March 1992. Annexe 16 of the Commentary sets out the provisions for flat rate awards in respect of firefighters who were subject to any of the previous Firefighter's Pension Schemes from 1 April 1948 to 30 April 1992.

RULE E9
Flat rate awards

Amounts of flat rate awards given in Rule E9

NATURE OF AWARD	FLAT RATE PENSION ACCORDING TO ROLE (RANK) OF FIREFIGHTER		
	Watch Manager A (Sub-Officer) or below £ per annum	Watch Manager B to Area Manager A (Sub-Officer to Divisional Officer (Grade 1)) £ per annum	Above Area Manager A (Divisional Officer (Grade 1)) £ per annum
Spouse's or civil partner's ordinary pension (Para. 2, Pt. I, Sch. 3)	379.78*	494.54*	594.18*
Spouse's or civil partner's accrued pension (Para. 3, Pt. III, Sch. 3)	379.78#	494.54#	594.18#
Child's ordinary allowance (Para. 3, Pt. 1, Sch. 4) where one of the child's parents is alive	107.99	127.29	157.02
Child's ordinary allowance (Para. 3, Pt. 1, Sch. 4) where neither of the child's parents is alive	159.11	188.84	233.19
Child's ordinary allowance (Para. 3, Pt. 1, Sch. 4) where neither of the child's parents is alive and at the discretion of the fire and rescue authority	209.19	249.88	311.44
Child's accrued allowance (Para. 3, Pt. 1, Sch. 4 : Pt. III, Sch. 4) where one of the child's parents is alive	107.99	127.29	157.02
Child's accrued allowance (Para. 3, Pt. 1, Sch. 4 : Pt. III, Sch. 4) where neither of the child's parents is alive	159.11	188.84	233.19
Child's accrued allowance (Para. 3, Pt. 1, Sch. 4 : Pt. III, Sch. 4) where neither of the child's parents is alive and at the discretion of the fire and rescue authority	209.19	249.88	311.44

* plus an additional £29.91 if you were entitled to reckon at least 10 years' service

plus an additional £29.91 if you ceased to serve after 5 April 1975 and would, if you had continued to serve until normal pension age ("compulsory retirement age" before 21.1.2005) , have become entitled to reckon at least 10 years' pensionable service

These figures are increased by Pensions Increase Orders – see "Effect of Pensions Increase" in the explanation of Rule E9 – the first applicable Order being the Pensions Increase (Review) Order 1979.