

RULE J6 Other special cases

Rule J6 deals with the "protected rights" of firefighters who opted in 1956 to retain their current pension rights instead of joining the FPS (Part IV of Schedule 11) and special cases covered by Local Government Reorganisation or "Combination Schemes" (Part V of Schedule 11).

**Background:
Part IV of
Schedule 11**

The structure of the FPS changed quite considerably in 1956. Firefighters serving at the time were given the opportunity to stay subject to the previous provisions. If they did, they were known as "1956 Optants". Successive schemes contained protected rights for these Optants.

Each time a new FPS was introduced, 1956 Optants were given the opportunity to cancel their election to be a 1956 Optant and join the FPS in its current form.

All 1956 Optants who had served continuously would have completed at least 30 years' service in July 1986 and when the FPS 1992 was introduced it was most unlikely that any would still be serving. Nevertheless, the FPS Order 1992 contained protected provisions ("modifications") for –

- those who were still serving
- former members, and
- their widows and dependants.

Rule J6 refers to Part IV of Schedule 11 for details of the modifications which apply in respect of 1956 Optants.

**Modification for
1956 Optants:
Contributions**

A 1956 Optant pays a basic contribution rate of 7.75%. No additional or further contributions are payable because the option to uprate widows' benefits appeared in legislation made after 1956.

**Modification for
1956 Optants:
Retirement**

A 1956 Optant is allowed to retire on completion of 25 years' service, even if under age 50, but to get a full 40/60ths pension he must be 55. This is because the number of 60ths which can be used in the assessment is restricted according to age.

**Modification for
1956 Optants:
Calculation of
pension**

There are 2 major differences between the calculation of a pension for a 1956 Optant and for a firefighter subject to the main provisions of the FPS 1992 –

- the pensionable pay used in the pension formula
- the number of 60ths used in the pension formula

**Modification for
1956 Optants:
Pensionable pay**

A 1956 Optant, in most circumstances, has the advantage of having actual pensionable pay (i.e. as at the date of leaving) used in the assessment of pension. If, however, he had had a promotion in the three years prior to leaving then the pensionable pay used would be the greater of –

- pay averaged over the 3 years before retirement, or
- actual pensionable pay as if he had not been promoted.

Rule J6 (continued)

**Modification for
1956 Optants:
Number of 60ths**

Although the number of 60ths which can be credited for an ordinary pension are initially assessed on the same basis as in the FPS 1992 (1/60th for each year of service up to 20 years, 2/60ths for each year of service over 20 years), a 1956 Optant is restricted by an age limit as follows –

<u>Age of firefighter at retirement</u>		<u>Maximum pension as 60ths of pensionable pay</u>
Less than 51	→	30
Less than 52 but over 51	→	32
Less than 53 but over 52	→	34
Less than 54 but over 53	→	36
Less than 55 but over 54	→	38
55 or over	→	40

No reduction in pension in respect of a widow's pension uprating option is made because a firefighter who stayed with the former Scheme rules accepted there would be a widow's flat rate pension only. He does, however, have the right to commute or allocate a portion of his pension.

**Modification for
1956 Optants:
Widow's or
partner's
benefits**

As explained above, the widow's pension for a 1956 Optant would be flat rate. No female firefighters were serving in 1956 and so there is no reference to widower's benefits. However, the FPS introduced death benefit cover for surviving civil partners with effect from 5 December 2005, the first date at which a civil partnership could be formed and registered. The cover is retrospective to 6 April 1988. A flat rate pension for the civil partner of a 1956 Optant would be pro rated having regard to post 5 April 1988 service only.

**Modification for
1956 Optants:
Ill-health and
injury pensions**

A 1956 Optant's ill-health pension does not provide an enhancement of service in the same way as a FPS 1992 ill-health pension does. It is based on the standard principle of 1/60th for each year of service up to 20 years and 2/60ths for each year of service over 20 years. Nothing is added. However, the age limitation on service as shown in the table above does not apply and so the 1956 Optant retiring on health grounds could still end up with more pension than he would have done had he retired voluntarily.

If he suffers a qualifying injury, the 1956 Optant has the same entitlement to injury benefits as a firefighter subject to FPS 1992 even though the "guaranteed minimum income" idea was not introduced until 1973.

Rule J6 (continued)

Background:
Part V of
Schedule 11

This provision applies to firefighters who had a change of position as a result of Orders made under the Fire Services Act 1947 (Sections 5, 6 and 9), the Local Government Acts of 1933 and 1958, or the London Government Act 1963. Where they were re-employed in another brigade during the "resettlement" period, in certain circumstances pensionable service can be counted under Rule F2 as if there was no break in service. There are also certain safeguards in respect of the calculation of average pensionable pay for the purposes of awards.

Useful reference source

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

Points To Note

1. It is necessary to retain these provisions in the FPS to cover any award to a former firefighter affected, or any dependants' benefits which may become payable.
2. 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:

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