

PART J

SPECIAL CASES

Part J includes a range of provisions which may affect your pension award, but which are likely to affect many members of the FPS, particularly recent recruits. Rule J1 ensures that the rate of pension payable under the FPS will never be less than the relevant "guaranteed minimum" arising from Social Security Pensions legislation. Rule J2 enables benefits to be transferred to an insurance contract arrangement by providing for a change in the method of revaluation of the GMP element. Rule J3 allows discretion to grant injury benefits to control room staff in certain limited circumstances. Rule J4 applies to retained firefighters who become permanently disabled due to a "qualifying injury". Rule J5 clarifies the scope of the FPS in relation to members of brigades who are not regular firefighters. Rule J6 refers to Schedule 11, Parts IV and V which cover reserved rights for certain long serving cases.

SERPS The background to the state earnings-related pension scheme (SERPS) is explained in ANNEX 2, which refers to all those provisions of the Scheme which are included because regular firefighters are contracted-out of SERPS.

GMP The main provision of this kind is J1, which ensures payment of:

- * your GMP, and
- * your widow's half GMP, or
- * your widower's GMP (which would be based on half of your GMP for service after 6 April 1988),

if you are so entitled.

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Rule J1 is a backstop provision. The chances are that you and your widow(er) will receive your GMP entitlement as part of your fire pension, rather than under J1.

Who is eligible?

You are eligible for a GMP if you are a regular firefighter with service on or after 6 April 1978.

- * You may also have transferred contracted-out employment in another job into the fire service, which would increase your GMP entitlement.
- * If you transfer out of the fire service:
 - a. to other contracted-out employment,
 - b. in circumstances in which your fire authority can pay a contributions equivalent premium (CEP) or a transfer premium (TP) to buy you back into SERPS, or
 - c. a transfer value is paid to an approved insurance company (see F9-8),

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How much is the GMP?

your GMP entitlement under the FPS will cease.

(See ANNEX 2-5)

When is the GMP paid?

Your GMP will be paid to you under J1, when you reach state pensionable age, unless:

- * you are still serving as a regular firefighter,
- * your pension has been withdrawn under K4 during a period of re-employment as a regular firefighter,
- * it has been commuted under B8,
- * it has been forfeited in the circumstances of K5(2)(a)
- * the current value of your GMP is less than the current value of any other pensions payable to you under this Scheme, disregarding any secured portion.

**GUARANTEED MINIMUM
PENSIONS**

**When is the
widow(er)'s
GMP paid?**

Your widow(er)'s GMP will be paid under J1 from the date of your death, unless:

- * it has been converted into a gratuity under E5,
- * it has been forfeited under K5(2),
- * he or she remarried before state pensionable age,
- * the current value of his or her GMP is less than the current value of any other pensions payable under this Scheme.

POINTS TO NOTE



1. It will be unusual for a pension to be paid to you or your widow(er) under J1, as your pensions under other provisions of the FPS are likely to be bigger.
2. Pensions increase on your GMP or your widow(er)'s GMP is paid by DSS and not by your fire authority, except that part of the increase (up to 3%) on post-1988 GMP's will be paid by the fire authority (see Annex 1-8 and 1-9). This applies whether your GMP, or your widow(er)'s GMP is paid under J1, or as part of your pensions under other provisions of the FPS.

This provision allows the transfer of your benefits under the FPS to approved insurance policies or annuities ("Section 32" policies) where the insurance company concerned will accept the transfer only on the basis of fixed liability for the revaluation of the GMP.

POINTS TO NOTE

1. This is a technical provision introduced in 1990 which removes an unforeseen obstacle to the transfer of FPS benefits to "Section 32" policies. This enables your GMP to be revalued in accordance with the "fixed-rate" method where you become entitled to a cash equivalent transfer value and decide to have it used for the purchase of an annuity.

WHOLE TIME MEMBER OF
BRIGADE WHO IS NOT A
REGULAR FIREFIGHTER

Who is eligible? If you are a whole-time member of a brigade but not a regular firefighter (see A2-3), you will be eligible for an award under J3:

- for yourself, your widow(er) or your children, if:
- * you are injured while attending a fire in execution of your duties and without your own default, and retire as a result, or
- * you die as a result of such an injury, whether you are still serving or not.

How much is the award? Your award, which is at the discretion of your fire authority, may consist of:

- * a pension, and
- * a gratuity.

When added to any relevant additional benefit (see "POINTS TO NOTE 2", J3-2), your award may not exceed:

- the injury pension and gratuity you would have had under B4, (ignoring any reduction for another pension under the scheme) if you were:
 - a. a regular firefighter in the basic rank, and
 - b. retired on account of a qualifying injury during your first year of service.

Widow(er)'s award

Your widow(er)'s award, which is at the discretion of your fire authority, may consist of:

- * a pension, and
- * a gratuity.

When added to any relevant additional benefit (see "POINTS TO NOTE 2", J3-2), your widow(er)'s award may not exceed:

- the special pension and gratuity he or she would have had under C2, had you been:
 - a. a regular firefighter in the basic rank, and
 - b. retired on account of a qualifying injury during your first year of service.

WHOLE TIME MEMBER OF
BRIGADE WHO IS NOT A
REGULAR FIREFIGHTER

Children's
award

The award for any child eligible for a child's allowance, (and if you are a woman the child must also be substantially dependent on you at the time of your death), which is at the discretion of your fire authority, may consist of:

* an allowance.

When added to any relevant additional benefit (see "POINTS TO NOTE 2", below), your child's award may not exceed:

- the special allowance he or she would have had under D2, had you been:
 - a. a regular firefighter in the basic rank, and
 - b. retired on account of a qualifying injury during your first year of service.

When is the
award paid?

See L3-1.

POINTS TO NOTE

1. The main purpose of this rule is to cover the possibility of a mobile control room attending a large fire.
2. "Relevant additional benefit" covers any other payments (periodical payments except in relation to a gratuity) to the beneficiary by:
 - your fire authority,
 - any other local authority, or
 - a Minister of the Crown, except DSS benefits.
3. "Substantially dependent" is not defined in the Scheme. A fire authority will need to be satisfied on this point, where the payment of an award depends on it (see "POINTS TO NOTE 1" - D5-1).

RULE J4

J4-Example 1

PART-TIME MEMBER
OF BRIGADE

PERSONAL AWARDS

Who is eligible?

If you are a part-time (retained) firefighter you will be entitled to an injury award if:

- * you retire from your fire-fighting duties, and
- * as a result of a qualifying injury (see A9) you are permanently disabled (see A10).

How much is the award?

Your award will consist of:

- * an ill-health pension
- * an injury pension, and
- * a gratuity.

The awards will be payable as if you were a regular firefighter of your rank and with your length of service (see J4(7)) entitled to awards under B3 and B4. (see J4 - Example 1).

The provisions of the scheme relating to:

- general provisions (Part A),
- commutation (B7),
- allocation (B9),
- limitation of commutation or allocation (B10),
- appeals and medical questions (Part H), (see "POINTS TO NOTE 4", below),
- revision and withdrawal of awards (Part K), and
- payments by and to fire authorities (Part L), will apply to you subject to any necessary modifications.

When is the award paid?

See L3-1.

POINTS TO NOTE

1. You are not entitled to normal retirement benefits under the Scheme because the fire service is not your normal full-time occupation.
2. If you also had a period of service as a regular firefighter this cannot be counted for the purposes of any award as a part-time firefighter.
3. You will need to look at J5-1 for the details which fix the amount of your award.
4. A retained firefighter has a right of appeal to a medical referee under rule H2 in a case where an injury award is being claimed but not against other medical decisions where there is no award under the FPS at issue, such as retirement on health grounds. However, an NJC agreement provides that a procedure similar to that under the FPS will be followed in any case where a retained firefighter wishes to challenge a retirement decision. Details are given in Fire Service Circular No 7/1986 dated 5 November 1986 (paragraph 8 onwards) and its Scottish Office equivalent or in Section IV paragraph 9(4) of the Grey Book. (See also "POINTS TO NOTE 6", H2-4).

SPOUSE'S AWARDS

Who is eligible? If you are a part-time firefighter (see J4-1) and you die from:

- a qualifying injury, or
- disablement caused by a qualifying injury:
- * your widow(er) will be entitled to a spouse's injury award.

How much is the award?

A widow(er)'s injury award will consist of:

- * a special pension, and
- * a gratuity.

The awards will be payable as if you were a regular firefighter described in J4(7) (see J4-1), and according to the circumstances your spouse will be entitled to a like award as:

- a special pension and gratuity under C2,
- an augmented award under C3, or
- a pension in case of post-retirement marriage under C5.

The award will be subject to the provisions relating to:

- living apart, in C8,
- remarriage, in C9, and
- commuting a pension for a gratuity, in E5.

When is the award paid?

See L3-1.

POINTS TO NOTE

1. You will need to look at J5-1 for the details which fix the amount of a widow(er)'s injury award.

PART-TIME MEMBER
OF BRIGADE

CHILD'S AWARD

Who is eligible? If you are a part-time firefighter (see J4-1) and you die from:

- a qualifying injury, or
- disablement caused by a qualifying injury:
- * your child may be entitled to (or, if you are a woman and your child is substantially dependent on you at the time of your death, he or she may be granted):
- a child's injury award.

How much is the award?

A child's injury award will consist of:

- * a child's special allowance, and
- * a child's special gratuity, if one of the conditions in C3 is met and there is no widow entitled to a gratuity under J4.

These awards will be payable as if you were a regular firefighter described in J4(7) (see J4-1), and according to the circumstances your children will be entitled to like awards, as:

- a child's special allowance under D2, and
- a child's special gratuity under D3.

The awards will be subject to the provisions relating to:

- limitations in D5, and
- commuting an allowance for a gratuity in E5.

If you are a woman the amounts of your children's allowances will be at the discretion of your fire authority, and may not exceed what they would have been had you been a man.

When is the award paid?

See L3-1

POINTS TO NOTE

1. "Substantially dependent" is not defined in the Scheme. A fire authority will need to be satisfied on this point, where the payment of an award depends on it. (See "POINTS TO NOTE 1", D5-1).

MEMBERS OF BRIGADES
OTHER THAN REGULAR
FIREFIGHTERS -
SUPPLEMENTARY

This rule specifies that Part A of the FPS applies for interpretation of rules J3 and J4 and that Part H, rule K5 (forfeiture) and Part L apply to awards under those rules. Otherwise the FPS has no application to members of brigades who are not regular firefighters.

Extent to
which the
FPS applies

When an award is calculated as if you had been a regular firefighter, all references in the scheme to a regular firefighter which affect the payment of the award in question are taken as applying to you:

- eg a widow's special gratuity is normally payable only where her husband died while serving as a regular firefighter.

References to a regular firefighter which have no bearing on the award in question would not apply to you:

- eg you would not be required to pay pension contributions under G2.

"Qualified"
rate of pay

Where it is necessary to establish the rate of pay of a regular firefighter for the purpose of an award to a part-time firefighter, it should be normally the "qualified" rate of pay where the person had a period of part-time service of at least 4 years.

GENERAL

This Part deals with the continuing application of the Scheme, with modifications, to firemen who opted in 1956 to retain their current pension rights instead of joining the Firemen's Pension Scheme 1956 (the 1956 Scheme). These men are referred to as "1956 optants".

"Current pension rights" before 1956 were in the Firemen's Pension Scheme 1952.

In 1973 anyone still serving or who would later rejoin who was a 1956 optant was given a chance to join the 1973 Scheme. If he did so, he ceased to be a 1956 optant.

As all 1956 optants would have completed at least 30 years' service in July 1986, it is unlikely that many are still serving. The provisions of Part IV are needed to preserve the rights of:

- those who are still serving,
- former members , and
- their widows and dependants whose awards are based on the Scheme as modified by Part IV.

The modifications are set out in paragraphs 3 to 22 of Part IV which work by:

- making minor amendments to other provisions of the Scheme as they affect 1956 optants, or
- substituting new provisions where major changes are needed.

The main differences between 1956 optants and other firefighters are as follows:

CONTRIBUTIONS

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

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 age 55. This is because the number of 60ths which can be used in the assessment of pension is restricted according to age (see below).

CALCULATION
OF PENSION

There are two major differences between the calculation of a pension for a 1956 Optant and for a firefighter subject to the main provisions of the 1992 Pension Scheme. These are in:

- (a) the pensionable pay used in the pension formula, and
- (b) the number of 60ths used in the pension formula.

**SPECIAL CASES:
"1956 OPTANTS"**

(a) Pensionable pay

A 1956 optant, in most circumstances, has the advantage of having actual pensionable pay (ie as at 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 three years prior to retirement, or
- * actual pensionable pay as if he had not been promoted.

(b) 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 current legislation (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 shown below.

Years of age of fireman at retirement	Maximum pension expressed as 60ths of pensionable pay
Less than 51	30
Less than 52 but 51 or over	32
Less than 53 but 52 or over	34
Less than 54 but 53 or over	36
Less than 55 but 54 or over	38
55 or over	40

No reduction in pension in respect of a widow's pension uprating option is made because a man 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.

**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 current Scheme 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 the current Pension Scheme even though the 'guaranteed minimum income' idea was not introduced until 1973.

SPECIAL CASES:
LOCAL GOVERNMENT
RE-ORGANISATION OR
COMBINATION SCHEME

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 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.

POINTS TO NOTE

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

INJURY AWARD - PART-TIME FIREFIGHTER

Example
1

A retained (part-time) firefighter with exactly 5 years' service is retired as a result of a qualifying injury. His degree of disability (ie loss of earning capacity) has been assessed at 15%.

For the purpose of calculating his injury award the firefighter is treated as if he were a regular firefighter in the same rank and with the same service.

Average pensionable pay = £14200

Ill-health pension = $\frac{2 \times 5}{60} \times £14200 = £2366.66\text{pa}$

Injury gratuity = 12.5% of APP
= 12.5% of £14200 = £1775

Injury pension

Minimum Income Guarantee

= 30% of APP

= 30% of £14200 = £4260pa

Deduct $\frac{1}{4}$ of ill-health pension = $\frac{£1775.00}{£2485.00}$

Weekly rate of injury pension = £47.64

Deduction in respect of relevant Social Security benefits = £40.50

Injury pension payable = £7.14 a week