

# FPS 2006 – Part 4, Chapter 1 Surviving Spouses, Civil Partners and Cohabiting partners

[2006/3432](#) – Original order

[2014/445](#) – changes shown below in red

[2018/997](#) – changes shown below in green

SURVIVING SPOUSES, CIVIL PARTNERS AND ~~NOMINATED~~ COHABITING PARTNERS

## Pensions for surviving spouses, civil partners and ~~nominated~~ cohabiting partners

1.—(1) Subject to the following provisions of this rule, a pension is payable on the death of—

(a) a firefighter member **other than a special firefighter member** who satisfies an eligibility condition and dies while employed by an authority; or

**aa) a special firefighter member who satisfies one of the special eligibility conditions and dies while employed by an authority; or**

(b) a former firefighter member who—

(i) has been awarded a deferred pension under rule 3 of Part 3 which has not come into payment,

(ii) is in receipt of a deferred pension under that rule; or

(iii) is in receipt of a pension under any of rules 1, **1A**, 2, **2A**, 5 and 6 of Part 3,

to the deceased's spouse, civil partner or ~~nominated~~ cohabiting partner for the remainder of his life (a "survivor's pension").

(2) A survivor's pension is not payable if the deceased's spouse, civil partner or ~~nominated~~ cohabiting partner (as the case may be) is convicted of the murder of the deceased; but this is subject to paragraph (4).

(3) Subject to paragraph (5), where the deceased's spouse, civil partner or ~~nominated~~ cohabiting partner (as the case may be) is convicted of the manslaughter of the deceased, the authority may, as they think fit, withhold the survivor's pension—

(a) in whole or in part, and

(b) permanently or temporarily.

(4) Where a conviction of the description mentioned in paragraph (2) is quashed on appeal—

(a) a survivor's pension shall be payable from the day after that on which the deceased died, and

(b) the authority shall, as soon as reasonably practicable after the conviction is quashed, pay the arrears of pension accrued.

(5) Where—

(a) a conviction of the description mentioned in paragraph (3) is quashed on appeal,

and

(b) the authority have withheld any part of the survivor's pension,

the authority's decision under paragraph (3) shall be treated as revoked and they shall, as soon as reasonably practicable after the conviction is quashed, pay the arrears of pension accrued from the day after that on which the deceased died.

(6) Nothing in paragraph (4) or (5) shall affect the application of paragraph (2) or (3) if the person whose conviction is quashed is subsequently convicted of the murder or manslaughter of the deceased.

### **Amount of survivor's pension: general**

**2.—(1)** Subject to rule 3, the amount of a survivor's pension—

(a) in respect of a firefighter member who satisfies an eligibility condition and dies while employed by an authority, is half of the higher tier ill-health pension to which he would have been entitled under rule 2(4) of Part 3 had he retired with the benefit of an ill-health award;

(b) in any other case, subject to paragraphs (2) and (3), is half of the pension to which the deceased was entitled.

(2) Where a portion of the deceased's pension had been commuted under rule 9 of Part 3, the amount of the survivor's pension is half of the deceased's pension after commutation.

(3) Where the deceased had taken member-initiated early retirement, the amount of the survivor's pension is—

(a) half of the amount of the pension which the deceased would have received if there had been no actuarial reduction; or

(b) where a portion of the deceased's pension had been commuted, the amount found by dividing by 2 the product of A and B, where—

- A is the amount which the deceased would have received if there had been no actuarial reduction; and
- B is the fraction which represents the uncommuted portion of A expressed as a fraction of A.

(4) In the case of a firefighter member who is a special firefighter member, this rule applies with the substitution in paragraph (1)(a) of "one of the special eligibility conditions" for "an eligibility condition"

#### Amount of survivor's pension: special cases

3.—(1) Subject to paragraph (2), where the person entitled to a survivor's pension under rule 1 is more than twelve years younger than the deceased on the day on which he dies, a reduction of 2.5 per cent. ~~for each year by which the survivor's age exceeds, by more than twelve years, that of the deceased for each year by which the deceased's age exceeds, by more than twelve years, that of the survivor,~~ shall be applied to the rule 2 amount.

(2) Where the application of paragraph (1) would result in the payment of a survivor's pension of less than 50 per cent. of the rule 2 amount, the survivor's pension shall be 50 per cent. of the rule 2 amount.

(3) Where—

(a) a pension debit member satisfies an eligibility condition **or, in the case of a special member, satisfies a special eligibility condition** and dies while employed by an authority,

(b) a survivor's pension is payable under rule 1 on his death, and

(c) a pension sharing order or, in the case of a surviving civil partner, an order to similar effect, had effect on the day on which the pension debit member died,

the amount of the survivor's pension shall be ascertained with regard to the terms of that order.

(4) In paragraphs (1) and (2), “the rule 2 amount” means the amount that would have been ascertained in accordance with rule 2 if that rule were not subject to paragraphs (1) to (3) of this rule.

(5) For the purposes of paragraph (1), a part of a year shall be treated as a whole year.

#### **Bereavement pension: survivors**

**4.—**(1) Subject to paragraph (2), a person entitled to a survivor’s pension under rule 1 is also entitled, in respect of each of the 13 weeks following the death, to a bereavement pension of an amount equal to the difference between the weekly rate at which the survivor’s pension is paid and—

(a) if the deceased was a firefighter member when he died, the weekly rate of his pensionable pay when he died;

(b) in any other case, the weekly rate of his pension or pensions (including any increase under the Pensions (Increase) Act 1971) when he died.

(2) No entitlement arises under paragraph (1) where—

(a) a contributions election has effect at the date of the deceased’s death, or

(b) the deceased was entitled to a deferred pension that had not come into payment.

#### **Commutation of pensions for surviving spouses, civil partners and ~~nominated~~cohabiting partners**

**5.—**(1) A pension payable under this Chapter may, if the person entitled to it so requests, be commuted for a lump sum if, after commutation, the lump sum would be a trivial commutation lump sum death benefit within the meaning of paragraph 20 of Schedule 29 to the Finance Act 2004.

(2) The amount of the lump sum shall be calculated in accordance with tables prepared by the Scheme Actuary and in force when the commutation takes effect

(3) On the day on which a pension is commuted under this rule, all other entitlements under this Scheme of the person entitled to the pension are extinguished to the extent that they derive from the deceased member.