

1992 Regulations – Part G, Reg G1

Main SI amendments to regulation G1

<u>1992/129</u>	Original order
<u>2004/1912</u>	Changes shown below in red
<u>2008/214</u>	Introduced CPD / LSI amendments (changes shown in green)
<u>2013/1392</u>	(2013 amendment orders – due to Norman v Cheshire) (changes shown in blue)
<u>2015/589</u>	(2015 transitional protection – provides linked protection) (changes shown in purple)
<u>2017/892</u>	2017 amendment orders (changes shown in pink)

- (1) Subject to paragraphs (2), (9) and (10) , the pensionable pay of a regular firefighter is the aggregate of-
- (a) the amount determined in relation to the performance of the duties of his role (whether as a whole-time or part-time employee) other than those amounts payable to him in respect of the benefits within rule B5C(5) ; and
 - (b) the amount (if any) of any benefits which are pensionable under rule B5C(1).
- (2) For the purposes of paragraph (1), in the case of a person by whom pension contributions became payable after 31st May 1989 either—
- (a) for the first time, or
 - (b) following any period in respect of which they were not payable, except where regulation 4 of the Retirement Benefit Schemes (Tax Relief on Contributions) (Disapplication of Earnings Cap) Regulations 1990(11) applies his pay shall be taken not to include any excess, in any tax year, over the figure which is the permitted maximum for that year for the purposes of section 594(2) and (3) of the Income and Corporation Taxes Act 1988(12) (that is to say, the figure specified for the year by an order made by the Treasury under section 590C(6) of that Act).

(2A) For the purposes of rule G2, the pensionable pay of a regular firefighter during a period of maternity, paternity or adoption leave shall be deemed to be the pay to which the person is entitled for that period including any statutory maternity, paternity or adoption pay under the Social Security Contributions and Benefits Act 1992.

(3) The average pensionable pay of a regular firefighter is, subject to paragraphs (5) to (7C), the aggregate of his pensionable pay for the year ending with the relevant date.

(4) The relevant date-

(a) for the purposes of rule C7 (spouse's or civil partner's award where no other award payable), and the Compensation Scheme, is the date of the person's last day of service as a regular firefighter, and

(b) for all other purposes of this Scheme, is the date of the person's last day of service in a period during which contributions were payable under rule G2.

(5) Subject to paragraphs (6) and (7), if he was in receipt of pensionable pay for part only of the year ending with the relevant date, his average pensionable pay is the aggregate of his pensionable pay for that part multiplied by the reciprocal of the fraction of the year which that part represents.

(6) For the purposes of paragraphs (3) and (5), any reduction of pensionable pay as a result of any-

(a) sick leave;

(b) stoppage of pay by way of punishment;

(c) ordinary maternity, ordinary adoption or paternity leave;

(d) paid additional maternity or additional adoption leave; or

(e) unpaid additional maternity or additional adoption leave where contributions have been paid under rule G2A,

shall be disregarded.

(7) If the amount determined in accordance with paragraphs (3) to (6) is less than it would have been if the relevant date had been the corresponding date in whichever of the two preceding years yields the highest amount, that corresponding date shall be taken to be the relevant date.

(7A) The average pensionable pay of a regular firefighter who-

- (a) is entitled to a long service increment; and
- (b) retires after 30th September 2006 and before 1st October 2007, or becomes entitled to a deferred pension under rule B5 within that period,

shall be calculated-

- (i) as if his long service increment had accrued at the rate of £990 per annum (disregarding the reduction in the amount of the long service increment that had effect in relation to times on and after 1st October 2006), and
- (ii) disregarding any LS-related payment.

(7B) The average pensionable pay of a regular firefighter who-

- (a) is entitled to additional pension benefit under rule B5B (additional pension benefit: long service increment), and
- (b) retires on or after 1st October 2007,

shall be calculated on the basis of whichever of the following paragraphs yields the greater amount-

- (i) the calculation is made with regard to the amount credited to him under rule B5B, but without regard to his long service increment and any LS-related payment, or
- (ii) the calculation is made with regard to his long service increment and any LS-related payment, but without regard to the amount credited to him under rule B5B.

(7C) The average pensionable pay of a regular firefighter shall be calculated without reference to any additional pension benefit credited under rule B5C (additional pension benefit).

(7D) In paragraphs (7A) and (7B) "LS-related payment" means an interim or transitional payment made to a regular firefighter in connection with his long service.

(8) A regular firefighter's average pensionable pay for a week is his average pensionable pay divided by 52 1/6th.

(9) Where before 1st July 2013 and after that date, any allowance or supplement is being paid to a firefighter which a fire and rescue authority treats as pensionable, but is not-

- (a) pensionable pay within the meaning of paragraph (1)(a);
- (b) additional pension benefit under rule B5B (long service increment); or
- (c) a payment in respect of a firefighter's continual professional development under rule B5C,

that allowance or supplement shall continue to be treated as pensionable for so long as the firefighter receives it without any break in payment.

(10) Where paragraph (6) of rule A3 (exclusive application to regular firefighters) applies to a regular firefighter and paragraph 1 of Schedule 7 (final salary link) to the 2013 Act applies to that person, paragraph (1) of this rule does not apply and the average pensionable pay is determined in accordance with Schedule 7 so that the member's pensionable pay under the 2014 Regulations, as modified by paragraph 33 of Schedule 2 to those Regulations, derived from service in the 2015 Scheme is to be regarded as derived from service in this Scheme.

(11) Where paragraph (10) and paragraph 34(4) of Schedule 2 to the 2014 Regulations apply to a member of this Scheme, the pensionable pay to be regarded as derived from service in this Scheme is the pensionable pay derived from service in the 2015 Scheme under the 2014 Regulations as modified by paragraph 33 of Schedule 2 to those Regulations for the last year of pensionable service before the reduction in pensionable pay.

(12) Where the pensionable pay under the 2014 Regulations is the pensionable pay of the person employed as a retained firefighter or as a volunteer firefighter for the purposes of paragraphs (10) and (11) the pensionable pay under the 2014 Regulations is that of a whole-time regular firefighter employed in a similar role and with equivalent qualifying service.

(13) Where paragraph 33(3) of Schedule 2 to the 2014 Regulations applies to a person to whom paragraph (6) of rule A3 applies, average pensionable pay is determined in accordance with paragraph (3) of this rule and paragraph (10) does not apply in the case of that person.

(14) Subject to paragraph (13), where paragraph (10) applies-

(a) in sub-paragraph (a) of paragraph (4) "the date of the person's last day of service as a regular firefighter" is to be read as "the date of the person's last day of service in scheme employment in the 2015 Scheme";

(b) in sub-paragraph (b) of paragraph (4) "in a period during which contributions were payable under rule G2" is to be read as "in a period during which member contributions were payable under regulation 110 of the 2014 Regulations"; and

(c) in sub-paragraph (e) of paragraph (6) where any unpaid period of additional maternity leave or adoption leave is within a period for which the pensionable pay derived from 2015 scheme service is treated as pensionable pay derived from this Scheme, "contributions have been paid under rule G2A" is to be read as "where contributions have been paid under regulation 113 of the 2014 Regulations".

(15) In a case where paragraphs (1) and (11) apply, in sub-paragraph (a) of paragraph (4) "the date of the person's last day of service as a regular firefighter" is to be read as "the date of the person's last day of service in scheme employment in the 2015 Scheme before the reduction of pensionable pay."