

## SCHEDULE

### Amendment of the Firefighters' Pension Scheme Order (Northern Ireland) 2007

#### 22. In Schedule 8 (appeal to independent medical referee)—

##### (1) In paragraph 1(1) substitute—

“1.—(1) Subject to sub-paragraph (2), written notice of appeal against a decision on an issue of a medical nature stating—

- (a) the appellant's name and address, and
- (b) the grounds of the appeal,

must be given to the authority within 28 days beginning with the date on which the appellant receives the documents referred to in article 66(4); and where the appellant receives those documents on different dates, they shall be treated for this purpose as received on the later or latest of those dates.”.

##### (2) For paragraph 2 substitute—

“2.—(1) On receiving a notice of appeal, the Board shall supply the Department with one copy of—

- (a) the notice of appeal,
- (b) the notice of the relevant decision,
- (c) the opinion, response or evidence (as the case may be) supplied to the appellant, and
- (d) every other document in its possession or under its control which appears to it to be relevant to the issue that is the subject of the appeal.

(2) The Department shall refer an appeal to the independent medical referee.”.

##### (3) After paragraph 2 insert—

“2A.—(1) As soon as reasonably practicable after reviewing the documents the independent medical referee shall give written notice to the Department—

- (a) of any other information which he considers would be desirable for the purpose of enabling him to determine the appeal, and
- (b) if it be the case, that it is his opinion that the appeal is frivolous, vexatious or manifestly ill-founded.

(2) On receipt of the independent medical referee's notice the Department shall—

- (a) where the independent medical referee has notified the Department of the desirability of obtaining other information, require the Board to use its best endeavours to obtain that information, and
- (b) where the notice contains an opinion of the description mentioned in sub-paragraph (1)(b), send a copy of it to the Board.

(3) When the Board receives a copy of the independent medical referee's opinion it shall, as soon as reasonably practicable—

- (a) send a copy of it to the appellant, and
- (b) by written notice to the appellant—
  - (i) advise him that, if his appeal is unsuccessful, he may be required to pay the Board's costs, and

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(ii) require him to notify it, within 14 days beginning with the date of its notice, whether he intends to pursue or withdraw the appeal.

(4) Where the Board notifies an appellant under sub-paragraph (3)(b) it shall inform the Department of the appellant's response to its request under sub-paragraph (b)(ii); and the Department shall notify the independent medical referee accordingly."

(4) In paragraph 3, for "The independent medical referee shall secure", substitute "Where an appeal is to be pursued, the independent medical referee shall secure".

(5) In paragraph 4, in sub-paragraph (2)(b) for "not less than 21 days' notice of", substitute "not less than two months' notice of".

(6) After paragraph 6, insert—

"6A.—(1) Where the appellant and the Board have received a copy of the report supplied under paragraph 6 and—

(a) the appellant and the Board ("the parties") agree that the independent medical referee has made an error of fact which materially affects the independent medical referee's decision;

(b) the Board shall within 28 days beginning with the date of receipt of the report, supply the Department with one copy of a statement agreed between the parties setting out—

(i) the error of fact;

(ii) the correct fact, and

invite the independent medical referee to reconsider his decision.

(2) The Department shall within 14 days beginning with the date of receipt of the statement supply a copy of it to the independent medical referee.

(3) As soon as reasonably practicable after receiving the statement, the independent medical referee shall reconsider his decision.

(4) Within 14 days beginning with the date of that reconsideration the independent medical referee shall—

(a) give written notice to the Department that he has confirmed his decision, or revised his decision (as the case may be), and

(b) if he has revised his decision, supply the Department with a written report of his revised decision.

(5) The Department shall supply to the appellant and the Board a copy of the written notice confirming the independent medical referee's decision, or a copy of the written report of the independent medical referee's revised decision (as the case may be)."

(7) In paragraph 8—

(a) in sub-paragraph (2)—

(i) after "decides" insert "an appeal"; and

(ii) after "7(1)" substitute "as it" with "as the Board".

(b) for sub-paragraph (3) substitute—

"(3) Where—

(a) the appellant gives notice to the independent medical referee—

(i) withdrawing the appeal;

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- (ii) requesting cancellation of, postponement of, or adjournment of the date appointed for an interview or medical examination under paragraph 4(2), and

the notice is given less than 21 working days before the date appointed under paragraph 4(2); or

- (b) the appellant's acts or omissions cause the independent medical referee to cancel, postpone or otherwise adjourn the date appointed under paragraph 4(2) less than 21 working days before the date so appointed,

the Board may require the appellant to pay it such sum, not exceeding the total amount of the fees and allowances payable to the independent medical referee under paragraph 7(1), as the Board thinks fit.”