

ANNEX

THE NEW FIREFIGHTERS' PENSION SCHEME (NORTHERN IRELAND)

PART 8

DETERMINATION OF QUESTIONS AND APPEALS

Determinations and decisions of the Board

46.—(1) The question whether a person is entitled to any and if so what awards shall be determined in the first instance by the Board.

(2) Subject to paragraph (3), before deciding, for the purpose of determining that question or any other question arising under this Scheme—

- (a) whether a person has been disabled;
- (b) whether any disablement is likely to be permanent;
- (c) whether the person would be able to undertake regular employment;
- (d) whether a person has become incapable of performing the duties of a regular firefighter; or
- (e) any other issue wholly or partly of a medical nature,

the Board shall obtain the written opinion of at least one qualified medical practitioner selected by it and the opinion of the qualified medical practitioner shall be binding on the Board.

(3) If by reason of the person's refusal or wilful or negligent failure to submit to medical examination by the practitioner or practitioners selected by it the Board is unable to obtain the opinion mentioned in paragraph (2), it may—

- (a) on such other medical evidence as it thinks fit; or
- (b) without medical evidence,

give such decision on the issue as it may choose to give.

(4) The Board shall, within fourteen days of making a decision or determination under this article;

- (a) give written notice of the decision or determination to the person concerned; and
- (b) in the case of a decision on an issue wholly or partly of a medical nature, unless paragraph (3) applies, supply him with a copy of the opinion obtained under paragraph (2).

Appeal against opinion on a medical issue

47.—(1) Where—

- (a) an opinion of the kind mentioned in article 46(2) has been obtained; and
- (b) within 14 days of his being notified of the Board's decision on the issue the person concerned applies to it for a copy of the opinion,

the Board shall supply him with a copy, together with a statement informing the person concerned that, if he wishes to appeal against the opinion, he must give the Board written notice of his grounds of appeal, together with his name and address, within 14 days of the date on which he is so supplied.

(2) If the person concerned is dissatisfied with the opinion which has been supplied to him under paragraph (1), he may appeal against it by giving notice to the Board in accordance with paragraph 1 of Schedule 2.

Status: This is the original version (as it was originally made).

(3) The Board shall be bound by any decision on a medical issue duly given on an appeal under this article. A decision given under this article overrules that of the medical practitioner selected by the Board under article 46.

(4) In this article, “medical issue” means any issue referred to in article 46.

(5) Further provisions as to appeals under this article are contained in Schedule 2.

Appeals on other issues

48.—(1) Where a person claims that he is entitled to an award or to any payment in respect of an award and the Board—

(a) does not admit the claim at all; or

(b) does not admit the claim to its full extent,

the Board shall reconsider the case if he applies to it to do so.

(2) If he is dissatisfied with any determination given by the Board on reconsidering the case he may, within 2 months of being informed by the Board of the decision, appeal to the Department against the decision of the Board.

(3) The Department shall, unless it appears to it that the case is of such a nature that it can properly be determined without taking oral evidence, arrange for the hearing of the appeal, and at any such hearing the appellant shall be entitled to have an opportunity of submitting statements relating to the subject matter of the appeal, calling witnesses, giving evidence and making such representations as he desires, and shall be entitled to have the assistance in presenting his case of a person selected by himself.

(4) After considering in accordance with the foregoing provisions of this article all the circumstances of the case the Department shall either allow the claim to such extent as it thinks fit or dismiss the appeal.

(5) Nothing in this paragraph shall authorise the Department to:-

(a) control or restrict the exercise of any discretion which is by this Scheme vested in the Board other than the discretion so vested by article 54; or

(b) reopen any medical issue decided on appeal under article 47.

(6) The decision of the Department on an appeal under paragraph (2) shall be final and binding on both parties.