
STATUTORY RULES OF NORTHERN IRELAND

2006 No. 268

**POLICE SERVICE OF NORTHERN IRELAND
AND POLICE SERVICE OF NORTHERN IRELAND
RESERVE (INJURY BENEFIT) REGULATIONS 2006**

PART 4

APPEALS AND MEDICAL QUESTIONS

Reference of medical questions

29.—(1) Subject to the provisions of this Part, the question whether a person is entitled to any, and if so what, awards under these Regulations shall be determined in the first instance by the Board.

(2) Subject to paragraph (3), where the Board is considering whether a person is permanently disabled, it shall refer for decision to a duly qualified medical practitioner selected by it the following questions—

- (a) whether the person concerned is disabled;
- (b) whether the disablement is likely to be permanent,

except that, in a case where the said questions have been referred for decision to a duly qualified medical practitioner under regulation H1(2) of the 1988 Regulations, a final decision of a medical authority on the said questions under Part H of the 1988 Regulations shall be binding for the purposes of these Regulations;

and, if it is further considering whether to grant an injury pension, shall so refer the following questions—

- (c) whether the disablement is the result of an injury received in the execution of duty, and
- (d) the degree of the person's disablement;

and, if it is considering whether to revise an injury pension, shall so refer question (d) above.

(3) Where the Board is considering eligibility for an award under regulation 11, paragraph (2) shall have effect as if the questions to be referred by it to a duly qualified medical practitioner were the following—

- (a) whether the person concerned is totally disabled;
- (b) whether that total disablement is likely to be permanent;
- (c) whether the disablement is the result of an injury received in the execution of duty; and
- (d) the date on which the person became totally disabled.

(4) The Board, if it is considering exercising its powers under regulation 36 (reduction of pension in case of default), shall refer for decision to a duly qualified medical practitioner selected by it the question whether the person concerned has brought about or substantially contributed to the disablement by his own default.

(5) The decision of the selected medical practitioner on the question or questions referred to him under this regulation shall be expressed in the form of a report and a certificate and shall, subject to regulations 30 and 31, be final.

(6) A copy of any such report and certificate shall be supplied to the person who is the subject of that report.

Appeal to independent medical referee

30.—(1) Where a person is dissatisfied with the decision of the selected medical practitioner as set out in a report and certificate under regulation 29(5), he may, within 28 days after he has received a copy of that report and certificate or such longer period as the Board may allow, and subject to and in accordance with the provisions of Schedule 6, give notice to the Board that he appeals against that decision.

(2) In any case where within a further 28 days of that notice being received (or such longer period as the Board may allow) that person has supplied to the Board a statement of the grounds of his appeal, the Board shall notify the Secretary of State accordingly and the Secretary of State shall appoint an independent medical referee to decide.

(3) The decision of the independent medical referee shall, if he disagrees with any part of the report and certificate of the selected medical practitioner, be expressed in the form of a report and certificate of his decision on any of the questions referred to the selected medical practitioner on which he disagrees with the latter's decision, and the decision of the independent medical referee shall, subject to the provisions of regulation 31, be final.

Further reference to medical authority

31.—(1) A tribunal hearing an appeal under regulation 33 may, if they consider that the evidence before the medical authority who has given the final decision was inaccurate or inadequate, refer the decision of that authority to him for reconsideration in the light of such facts as the tribunal may direct, and the medical authority shall accordingly reconsider his decision and, if necessary, issue a fresh report and certificate which, subject to any further reconsideration under this paragraph, shall be final.

(2) The Board and the claimant may, by agreement, refer any final decision of a medical authority who has given such a decision to him for reconsideration, and he shall accordingly reconsider his decision and, if necessary, issue a fresh report and certificate, which, subject to any further reconsideration under this paragraph or paragraph (1) or an appeal, where the claimant requests that an appeal of which he has given notice (before referral of the decision under this paragraph) be notified to the Secretary of State, under regulation 30, shall be final.

(3) If a tribunal decide, or a claimant and the Board agree, to refer a decision to the medical authority for reconsideration under this regulation and that medical authority is unable or unwilling to act, the decision may be referred to a duly qualified medical practitioner selected by the tribunal or, as the case may be, agreed upon by the claimant and the Board, and his decision shall have effect as if it were that of the medical authority who gave the decision which is to be reconsidered.

(4) In this regulation a medical authority who has given a final decision means the selected medical practitioner, if the time for appeal from his decision has expired without an appeal to an independent medical referee being made, or if, following a notice of appeal to the Board, the Board has not yet notified the Secretary of State of the appeal, if there has been such an appeal.

Refusal to be medically examined

32. If a question is referred to a medical authority under regulation 29, 30 or 31 and the person concerned wilfully or negligently fails to submit himself to such medical examination or to attend

such interviews as the medical authority may consider necessary in order to enable him to make his decision, then—

- (a) if the question arises otherwise than on an appeal to an independent medical referee, the Board may make its determination on such evidence and medical advice as it in its discretion thinks necessary;
- (b) if the question arises on an appeal to an independent medical referee, the appeal shall be deemed to be withdrawn.

Appeals

33.—(1) Where a police officer, or a person claiming an award in respect of such a police officer, is aggrieved by the refusal of the Board to admit a claim to receive as of right an award or a larger award than that granted, or by a decision of the Board as to whether a refusal to accept medical treatment is reasonable for the purposes of regulation 6(3), or by the forfeiture under regulation 38 by the Board of any award granted to or in respect of such a member, he may, subject to regulation 34, appeal to the Secretary of State.

(2) The Secretary of State, on receiving such notice of appeal, shall appoint an appeal tribunal (in paragraphs (3) to (8) referred to as the tribunal), consisting of three persons, including a barrister or solicitor of not less than seven years' standing and a retired police officer or retired member of a police force in Great Britain who, before he retired, held a rank not lower than that of superintendent.

(3) The time and place for the hearing, or any postponed or adjourned hearing, of the appeal shall be determined by the tribunal, which shall give reasonable notice thereof to the appellant and to the Board (in paragraphs (4) and (7) referred to as the parties).

(4) Either party may be represented before the tribunal by counsel, by a solicitor or by such other person as appears to him appropriate, adduce evidence and cross-examine witnesses.

(5) The rules of evidence applicable in the case of an appeal to a county court under Article 28 of the County Courts (Northern Ireland) Order 1980(1) shall apply in the case of an appeal under this regulation.

(6) Subject to the preceding provisions of this regulation, the tribunal shall determine its own procedure.

(7) The tribunal, after enquiring into the case and arriving at a decision thereon, may make such order in the matter as appears to it just, which order shall state the reasons for the decision; and each of the parties shall be entitled to a copy of any such order.

(8) An appeal shall lie on a point of law from any decision of a tribunal under this regulation to the High Court in accordance with rules of court.

Limitations on appeals

34.—(1) An appeal shall not lie under regulation 33 against anything done by the Board in the exercise of a power conferred by these Regulations which is expressly declared thereby to be a power which it is to exercise in its discretion.

(2) Subject to regulation 31(1), in any proceedings under regulation 33 the tribunal shall be bound by any final decision of a medical authority within the meaning of regulation 31.