

SCHEDULE 6

Regulation 30

MEDICAL APPEALS

1. Every notice of appeal under regulation 30(1) and statement of grounds under regulation 30(2) shall be in writing.

2. On receiving a notice of appeal against a report and certificate issued under regulation 29 and the appellant's statement of grounds for appeal, the Board, unless regulation 31(2) applies, shall forward to the Secretary of State two copies of those documents and all other documents determined as necessary by the Secretary of State.

3.—(1) The independent medical referee shall appoint a time and place for hearing the appeal, at which he may interview or examine the appellant, and for any such further hearings as he may consider necessary and shall give reasonable notice thereof to the appellant and Board.

(2) The Board and the appellant shall, before the date appointed for the hearing inform the Secretary of State whether they intend to be represented at the hearing.

4.—(1) Where either party to the appeal intends to submit written evidence or a written statement at a hearing arranged under paragraph 3 that party shall submit it to the Secretary of State and the other party before the date appointed for the hearing.

(2) The independent medical referee may postpone or adjourn the date appointed for the hearing where it appears necessary to do so for the proper determination of the appeal.

5.—(1) Any hearing (including any examination) may be attended by—

(a) the selected medical practitioner; and

(b) a duly qualified medical practitioner appointed for the purpose by the appellant,

although they may only observe any examination.

(2) If the selected medical practitioner does not attend any examination then a duly qualified medical practitioner appointed for that purpose by the Board may attend the examination as an observer.

(3) If any hearing includes an examination then only medical practitioners may be present for that part of the hearing.

6. The independent medical referee shall supply the Secretary of State with a written statement of his decision. Where the independent medical referee disagrees with any part of the selected medical practitioner's report, the independent medical referee shall supply a revised report and certificate, which shall be final.

7.—(1) There shall be paid to the independent medical referee—

(a) such fees as are determined in accordance with arrangements made by the Secretary of State; or

(b) where no such arrangements have been made, such fees and allowances as the Secretary of State may from time to time determine.

(2) Any fees and allowances payable to the independent medical referee under sub-paragraph (1) shall, subject to paragraph 8(5), be paid by the Board and shall be treated as part of the expenses of the Board for the purposes of this Schedule.

8.—(1) Save as provided in this paragraph, the expenses of each party to the appeal shall be borne by that party.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(2) Where a hearing has been cancelled, adjourned or postponed at the request of, or due to the actions or omissions of, the Board less than 11 days before the hearing (excluding weekends and public holidays) the independent medical referee shall require the Board to pay to the appellant any expenses actually and reasonably incurred by him in respect of attending or arranging to attend the cancelled, adjourned or postponed hearing as the case may be.

(3) Where the independent medical referee determines that a hearing has been cancelled, adjourned or postponed at the request of, or due to the actions or omissions of, the appellant, less than 11 days before the hearing (excluding weekends and public holidays) the Board may, subject to sub-paragraph (4), require the appellant to pay towards the cost of the cancellation, adjournment or postponement as the case may be, such sum not exceeding the total costs of the cancellation, adjournment or postponement as the case may be as the Board thinks fit.

(4) If the independent medical referee, after taking account of any representations from either party, decides that the cancellation, adjournment or postponement as the case may be was not due to any fault on the part of the appellant and the appellant should not pay towards the cost of the cancellation, adjournment or postponement as the case may be, he shall state that this is the case and the Board shall not require the payment of any such costs.

(5) Where the independent medical referee decides in favour of the Board and reports that in his opinion the appeal was frivolous or vexatious, the Board may, subject to sub-paragraph (6), require the appellant to pay towards the cost of the appeal such sum not exceeding the independent medical referee's total fees and allowances as the Board thinks fit.

(6) If the independent medical referee, after taking account of any representations from either party, decides there are exceptional reasons why the appellant should not pay towards the cost of the appeal, it shall state that this is the case and the Board shall not require the payment of any such costs.

(7) Where the independent medical referee decides in favour of the appellant, the Board shall refund to the appellant any expenses actually and reasonably incurred by the appellant in respect of attending any such hearing as is mentioned in paragraph 3.