

1985 No. 288

FIRE SERVICES

Fire Services (Discipline) Regulations (Northern Ireland) 1985

Made 21st October 1985

Coming into operation 16th December 1985

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SCHEDULE

OFFENCES AGAINST DISCIPLINE

The Department of the Environment, in exercise of the powers conferred on it by Article 9(5) of the Fire Services (Northern Ireland) Order 1984(a) and of all other powers enabling it in that behalf, makes the following regulations:—

PART I

GENERAL

Citation and commencement

1.—(1) These regulations may be cited as the Fire Services (Discipline) Regulations (Northern Ireland) 1985 and shall come into operation on 16th December 1985.

Application and interpretation

2.—(1) These regulations shall apply to all members of the fire brigade, including persons whose employment is temporary, who are appointed on terms under which they are or may be required to engage in fire-fighting, or who are engaged in duties in connection with the reception, transmission or recording of calls for the assistance of the fire brigade or with the transmission of instructions regarding the provision of such assistance by the fire brigade.

(2) In these regulations —

“appeal committee” has the meaning assigned to it by regulation 14(2);

“disciplinary body” in relation to a particular case means the chief fire officer or disciplinary tribunal by whom the case falls to be heard under regulation 10(1) or an officer nominated to hear the case under regulation 10(3);

“disciplinary tribunal” has the meaning assigned to it by regulation 10(1)(b);

“investigating officer” has the meaning assigned to it by regulation 5;

“offence” has the meaning assigned to it by regulation 4;

“principal officer” means a member of the fire brigade holding the rank of assistant chief fire officer or above or the post of deputy chief fire officer.

(3) In these regulations, reference to the chief fire officer shall include a reference to the deputy chief fire officer acting in the absence of the chief fire officer.

(4) In these regulations, reference to the chief fire officer shall include a reference to an officer not below the rank of assistant chief fire officer to whom the chief fire officer’s powers under the regulations have been delegated by the chief fire officer.

Revocation

3. The Fire Services (Discipline) Regulations (Northern Ireland) 1973(b) are revoked.

PART II

INVESTIGATION OF OFFENCES

Disciplinary offences

4. A member of the fire brigade commits an offence against discipline (hereinafter referred to as “an offence”) if he commits an offence set out in the schedule.

(a) S.I. 1984/1821 (NI 11)

(b) S.R. & O. (NI) 1973 No. 399

Referral of reports or allegations to the investigating officer

5.—(1) Where a report or allegation is received from which it appears that a member of the fire brigade may have committed an offence, the matter shall be referred for investigation to an officer (hereinafter referred to as “the investigating officer”) nominated by the chief fire officer or, in the case of a principal officer, by the Authority.

(2) The investigating officer shall be a uniformed officer of a rank not below the rank of the member subject to investigation and, in any event, not below the rank which comes next below the rank immediately below the chief fire officer.

(3) For the purposes of paragraph (2) the post of deputy chief fire officer shall be treated as a rank.

Preliminary investigation

6.—(1) Where from a preliminary investigation of the report or allegation, which shall include giving the member an opportunity to explain his conduct, the investigating officer, on hearing that explanation, if any, is of the opinion that—

- (a) commission of the offence by that member is established; and
- (b) the offence is so serious as to be capable of being punished only by dismissal; and
- (c) no further investigation of the matter is called for,

he shall report to the chief fire officer or, in the case of a principal officer, the Authority, who may dismiss the member forthwith:

Provided that no member may be dismissed under this regulation unless he has been given the opportunity, either personally or through another member of the fire brigade, to explain his conduct to the chief fire officer or, as the case may be, the Authority.

(2) When a member is given the opportunity under paragraph (1) to explain his conduct to the investigating officer, the chief fire officer or the Authority, he shall be—

- (a) informed that he is not obliged to say anything concerning the matter; and
- (b) warned that any explanation he does make may be used in any subsequent disciplinary proceedings.

(3) If the chief fire officer, or, as the case may be, the Authority—

- (a) on receiving such a report from the investigating officer; or
- (b) after hearing the member’s explanation;

considers that commission of the offence by him is not sufficiently established or would not merit dismissal they shall remit the case to the investigating officer for further investigation under regulation 8.

Appeal against dismissal arising out of a preliminary investigation

7: A member who has been dismissed under regulation 6(1) shall be entitled to appeal against the dismissal under regulation 13 or, as the case may be, 14 as if he had been dismissed after a hearing under regulation 10.

Further investigation

8. The investigating officer shall, save in the case of a preliminary investigation resulting in the dismissal of a member under regulation 6(1), as soon as practicable in writing—

- (a) inform the member that he is the subject of an investigation;
- (b) give him an opportunity to make a statement in reply; and

- (c) warn him that he is not obliged to make a statement but that any statement he does make in reply may be used in disciplinary proceedings.

Formulation of charges

9.—(1) On completion of the investigation the investigating officer shall decide whether the member should be charged with an offence.

(2) If the investigating officer decides that the member should not be charged with an offence he shall so inform the member in writing.

(3) If the investigating officer decides that the member shall be charged with an offence he shall, as soon as possible, in writing charge the member, setting out the offence with which he is charged together with such particulars as will clearly show the precise nature of the alleged offence.

When the member is charged he shall also be given, as soon as possible, copies of any report or allegation on which the charge may be founded and any reports or statements made to the investigating officer in relation to the charge, notwithstanding that they may be confidential.

PART III

HEARINGS AND INTERNAL APPEALS

Hearing

10.—(1) Save as provided in paragraphs (2) and (3), where a member of the fire brigade has been charged with an offence under regulation 9(3), the case shall be heard as the chief fire officer may determine, by:—

- (a) the chief fire officer; or
- (b) the disciplinary tribunal that is to say, a committee of the Authority designated as such by the Authority.

(2) A case shall be heard by the disciplinary tribunal if either—

- (a) the member is a principal officer; or
- (b) the case is of a class or description which the Authority has directed should be so heard.

(3) Where, in the case of a member who is not a principal officer, the investigating officer is of the view that the nature of the alleged offence is such that it is unlikely to merit greater punishment than a reprimand he shall so inform the chief fire officer who shall nominate another officer to conduct the hearing.

(4) The chief fire officer (where a case falls to be heard by him) or the Authority (where a case falls to be heard by the disciplinary tribunal) may appoint not more than 2 persons to act as assessors at the hearing.

(5) The chief fire officer (where a case falls to be heard by him) may at any time before its conclusion remit the case to the disciplinary tribunal for hearing or re-hearing.

(6) An officer nominated by the chief fire officer to conduct a hearing under paragraph (3) may at any time before the case is concluded remit the case to the chief fire officer for hearing or re-hearing.

Decision

11.—(1) At the conclusion of the hearing of a case, the disciplinary body shall either find the charge proved or dismiss the case.

(2) If the disciplinary body finds the charge proved it shall impose one of the disciplinary awards set out in regulation 12.

(3) As soon as possible after the disciplinary body has made a decision under paragraph (1) or (2) the accused shall be notified in writing of that decision.

Disciplinary awards

12.—(1) Subject to paragraph (2), where a charge is found to be proved one of the following disciplinary awards shall be imposed, namely—

- (a) dismissal;
- (b) requirement to resign from the fire brigade at the date when the award takes effect or such later date as may be specified in the award;
- (c) reduction in rank;
- (d) stoppage of pay or, in the case of a retained fireman, retaining fee;
- (e) a reprimand; or
- (f) a caution;

and separate awards shall be imposed for separate offences.

(2) An officer nominated to conduct a hearing under regulation 10(3) shall not impose an award other than those set out in paragraphs (1)(e) and (f).

(3) Where a member has been required to resign from the fire brigade and he has not resigned at the date specified in the award he shall be deemed to have been dismissed on that date.

(4) A stoppage of pay or retaining fee in respect of any one offence shall not continue after the expiration of 13 weeks from the date on which the award takes effect; and the amount of any stoppages (whether in respect of one or more offences) shall not exceed in the aggregate, in any pay or fee period, one-seventh of the pay or fee of the member for that period as determined in relation to his rank.

(5) Where the chief fire officer or the disciplinary tribunal, in deciding to impose a disciplinary award, other than a dismissal or a caution, under paragraph (1), is of the opinion that any further offence by the accused might warrant his dismissal they shall each be under a duty to issue a warning to him to that effect, and where such a warning is issued it shall be subject to appeal under these regulations as if it were an award under paragraph (1), save that—

- (a) any decision on such an appeal shall be limited to allowing or dismissing the appeal; and
- (b) the right of appeal to the Department under regulation 16 shall be limited to those cases where the award imposed itself carries such a right of appeal.

(6) Where a disciplinary award is imposed under paragraph 1(e) or (f) there shall be no right of appeal against either the finding or the award and the award shall take effect on the date when imposed or such later date as may be specified in the award.

(7) A disciplinary award imposed under paragraph 1(a) to (d) shall not take effect until—

- (a) it has been confirmed on appeal under regulation 13 or 14, or
- (b) the period for submitting notice of appeal under regulation 13(1) or 14(1) has expired.

(8) Where a disciplinary award has been confirmed as mentioned in paragraph (7)(a) or the period referred to in paragraph (7)(b) has expired without any notice of appeal being submitted, the award shall take effect forthwith or on such later date as may be specified in the award.

(9) Paragraphs (7) and (8) shall not apply in the case of a dismissal under regulation 6(1).

Appeal to disciplinary tribunal

13.—(1) Where a case has been heard by the chief fire officer in the first instance or on remission under regulation 10(6) and an award other than a reprimand or caution has been imposed, or where the chief fire officer has dismissed a member of the fire brigade under regulation 6(1), the accused may, within 7 days of being notified that such an award has been imposed, submit to the chief fire officer written notice of appeal.

(2) An appeal under this regulation shall be heard by the disciplinary tribunal.

(3) Subject to paragraph (4) below any such appeal shall be by way of a re-hearing.

(4) Where the appeal is against the award alone and a transcript of the original hearing is available the disciplinary tribunal may, if it thinks fit, and with the consent of both parties, decide the appeal without a re-hearing.

(5) The disciplinary tribunal may allow the appeal, confirm the award or vary the award by the imposition of some other award.

(6) Where the disciplinary tribunal allows the appeal or varies the award under paragraph (5) its decision shall be substituted for the decision appealed against and any award which it imposes shall take effect from the date of the appeal decision or such later date as may be specified in the award.

(7) The decision of the disciplinary tribunal shall, as soon as possible after it has been taken, be notified in writing to the accused.

Appeal committee

14.—(1) Where a case has been heard by the disciplinary tribunal in the first instance or on remission under regulation 10(5), and an award other than a reprimand or caution imposed, or where the Authority has dismissed a principal officer under regulation 6(1) the member concerned may, within 7 days of being notified that such an award has been imposed, submit to the disciplinary tribunal written notice of appeal.

(2) An appeal under this regulation shall be heard by a committee of the Authority (hereinafter referred to as “the appeal committee”) none of whose members shall be members of the disciplinary tribunal.

(3) Paragraphs (3) to (7) of regulation 13 shall apply to an appeal under paragraph (1) as if for the references in those paragraphs to the disciplinary tribunal there were substituted references to the appeal committee.

Representation

15.—(1) At the hearing of a case before the chief fire officer or an officer nominated by the chief fire officer, the accused shall be entitled to have the assistance in presenting his defence of a person selected by himself who shall be a member of the fire brigade:

Provided that the person so selected shall not be of a rank equal or superior to that of the officer hearing the case at first instance.

(2) At the hearing of a case before the Authority or at any appeal before the disciplinary tribunal or appeal committee the accused shall be entitled to the assistance in presenting his appeal of a person selected by himself who need not be a member of the fire brigade.

PART IV

APPEAL TO THE DEPARTMENT

Right of appeal to the Department

16.—(1) Where on appeal the disciplinary tribunal or the appeal committee has decided to impose or, as the case may be, confirm an award other than those specified in regulation 12(1)(d), (e) or (f) the accused may appeal in writing to the Department within 14 days of receiving written notice of such decision or such longer period as the Department may allow.

(2) A statement of the grounds of appeal shall be submitted by the accused with the written notice of appeal or within 50 days, or such longer period as the Department may allow in any particular case, from receiving written notice of the decision of the disciplinary tribunal or appeal committee as the case may be.

(3) If the accused fails to submit written grounds of appeal within the period referred to in paragraph (2) the Department shall be entitled to treat the notice of appeal as having been withdrawn.

Inquiries

17.—(1) The Department may in any case appoint one or more persons to hold an inquiry and report to it and shall do so where it appears to it that the case cannot properly be determined without hearing the evidence.

(2) The Department may also appoint not more than 2 persons to act as assessors at the inquiry.

Power to remit a case.

18. The Department may at any time remit a case for further consideration by the disciplinary tribunal or the appeal committee, or, if an inquiry has been held, for further investigation by the persons appointed to hold the inquiry.

Decision of the Department

19.—(1) The Department may allow the appeal, or dismiss the appeal or vary the award by the imposition of some other award appearing to it to be less severe.

(2) If the Department allows the appeal or varies the award its decision shall take effect by way of substitution for the decision appealed against, and as from the date when the award took effect.

(3) The decision of the Department shall, as soon as possible after it has been taken, be notified in writing to the appellant and the Authority.

Sealed with the Official Seal of the Department of the Environment on 21st
October 1985.

(L.S.)

J. M. Irvine

Assistant Secretary

SCHEDULE

Regulation 4

OFFENCES AGAINST DISCIPLINE

1. *Disobedience to orders*, which offence, is committed where a member of the fire brigade disobeys or, without reasonable cause, fails to carry out any lawful order, whether in writing or not.

2. *Insubordination* by word, act or demeanour.

3. *Abuse of authority*, which offence is committed where a member of the fire brigade's conduct towards another such member or a member of the public is oppressive or abusive.

4. *Absence from duty*, which offence is committed where a member of the fire brigade—
(a) without reasonable cause is absent from duty or is late for any parade, drill or other attendance; or

(b) without reasonable cause leaves his place of duty.

5. *Neglect of duty*, which offence is committed where a member of the fire brigade—
(a) without reasonable cause fails to attend to or carry out his duty promptly and diligently; or

(b) by carelessness or neglect suffers any loss, damage or injury to occur to any person or property; or

(c) fails to report any matter which it is his duty to report; or

(d) fails to make an entry, which it is his duty to make, in any book or document; or

(e) fails properly to account for, or to make a prompt and true return of, any money or property which comes into his possession as a result of his employment.

6. *Falsehood*, which offence is committed where a member of the fire brigade—

(a) knowingly or through wilful neglect makes any false, misleading or inaccurate oral or written statement or entry in any record or document made, kept or required for fire service purposes; or

(b) has knowingly or through wilful neglect made any false, misleading or inaccurate statement in connection with his appointment to the fire brigade.

7. *Misconduct in relation to official documents*, which offence is committed where a member of the fire brigade, without reasonable cause, destroys or mutilates any record or documents made, kept or required for fire service purposes, or alters or erases or adds to any entry in such a record or document.

8. *Improper disclosure of information*, which offence is committed where a member of the fire brigade without proper authority communicates to any person information which he acquires in confidence as a member of the fire brigade.

9. *Corrupt or improper practice*, which offence is committed where a member of the fire brigade improperly uses, or attempts so to use, his position as a member of the fire brigade for his own private advantage or for the private advantage of some other person.

10. *Loss of, or damage to, Authority property or failure to report such loss or damage*, which offences are committed where a member of the fire brigade—

(a) wilfully or negligently causes any waste or loss of, or damage to any property of the Authority, or fails to take reasonable care thereof; or

(b) fails to report as soon as is reasonably practicable any loss of or damage to any property issued to, or used by, him or entrusted to his care.

11. *Unfitness for duty*, which offence is committed where a member of the fire brigade renders himself unfit through drink or drugs or similar means for duties which he is or will be required to perform or which it is reasonable to foresee that he will have to perform.

12. *Criminal conduct*, which offence is committed where a member of the fire brigade has been found guilty by a court of law of a criminal offence, which either—

- (a) occurs in connection with his duties as a member of the fire brigade; or
- (b) does not so occur but has a bearing on his suitability for his job; or
- (c) is liable to bring the service into disrepute.

13. *Untidiness*, which offence is committed where a member of the fire brigade while on duty, or while off duty but wearing uniform in a public place, is without reasonable cause, dirty or untidy in his person, clothing or personal equipment.

14. *Conduct prejudicial to discipline*, which offence is committed where a member of the fire brigade while on duty or in uniform acts in a manner which is, or is likely to be, prejudicial to the discipline of the fire brigade.

15. *Conduct prejudicial to the reputation of the fire brigade*, which offence is committed where a member of the fire brigade intentionally or recklessly and without reasonable cause acts in a manner which damages, or is likely to damage, the reputation of the fire brigade.

EXPLANATORY NOTE

(This note is not part of the regulations.)

These regulations, which are made under Article 9(5) of the Fire Services (Northern Ireland) Order 1984 and revoke and supersede the Fire Services (Discipline) Regulations (Northern Ireland) 1973 provide for the maintenance of discipline in the fire brigade in Northern Ireland under the 1984 Order. The changes of substance from the 1973 regulations are described below.

Regulation 2(1) applies these regulations to all members of the brigade who are liable to engage in fire fighting or who are fire control staff. Regulation 5 provides for the nomination of an officer to investigate alleged offences against discipline. There is provision in regulation 6 for a preliminary investigation of the alleged offence, for summary dismissal in cases of gross misconduct (including, in both instances, the right to a hearing) and in regulation 7 a right of appeal against such dismissal. Under regulation 9 the investigating officer has the responsibility of deciding, at the end of an investigation, whether the member in question should be charged with an offence. Regulation 10 provides for cases involving members holding the rank of assistant chief fire officer or above or the post of deputy chief fire officer. Such cases, and such other cases as the chief fire officer determines, are to be heard in the first instance by a disciplinary tribunal consisting of a committee of the Fire Authority. Provision is also made, in regulation 10(3), for minor cases, where the highest award likely is a reprimand, to be heard under a less formal procedure presided over by an officer nominated by the chief fire officer. Disciplinary awards to be made under such a procedure are limited to reprimand or caution (regulation 12(2)). Regulation 12(5) provides for a warning as to future conduct to be given with any disciplinary award other than a dismissal or a caution, except where the hearing is held by an officer nominated by the chief fire officer. Both the warning and the award are to be subject to appeal. Reprimands no longer carry a right of appeal (regulation 12(6)). Regulation 12(7) provides that disciplinary awards carrying a right of appeal are not to take effect until they are confirmed on appeal or the time limit for appeal has expired. There is no longer any requirement, in the absence of an appeal, for disciplinary awards made by the chief fire officer to be confirmed by the Fire Authority. Regulation 14 provides a right of appeal within 7 days to a committee of the Fire Authority (known as "the appeal committee") from a decision, at first instance, of the disciplinary tribunal. The time limit for appeals to the Department is increased from 7 to 14 days or such longer period as the Department may allow (regulation 16(1)). Regulation 17 enables the Department to appoint not more than two persons to act as assessors at an inquiry held under that regulation for the purpose of determining an appeal.

The schedule to these regulations sets out offences against discipline. The offence of falsehood (paragraph 6) specifically includes the making of a false, misleading or inaccurate statement in connection with appointment to the fire brigade. There is a separate offence of misconduct in relation to official documents (paragraph 7). It is now an offence to render oneself unfit for duty through drugs as well as drink (paragraph 11). There is a new offence of criminal conduct (paragraph 12) and, consequently, the offence of discreditable conduct is replaced by the separate offences of untidiness (paragraph 13), conduct prejudicial to discipline (paragraph 14) and conduct prejudicial to the reputation of the brigade (paragraph 15).