

## SCHEDULE 2

Article 47(5)

### APPEAL TO INDEPENDENT MEDICAL REFEREE

4.—(1) Subject to sub-paragraph (2), written notice of appeal against an opinion of the kind mentioned in article 47 stating—

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

must be given to the Board within 28 days beginning with the date on which he is supplied by it with a copy of the opinion.

(2) Where—

- (a) notice of appeal is not given within the period specified in sub-paragraph (1); but
- (b) the Board is of the opinion that the person's failure to give it within that period was not due to his own default,

it may extend the period for giving notice to such length, not exceeding 6 months from the date mentioned in sub-paragraph (1), as it thinks fit.

5.—(1) On receiving a notice of appeal the Board shall supply the Department with two copies 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 subject of the appeal.

(2) The Department shall refer an appeal to an independent medical referee and shall supply him with a copy of the notice and a copy of the opinion.

6. The independent medical referee shall secure that the appellant and the Board ("the parties") have been informed—

- (a) that the appeal is to be determined by him; and
- (b) of an address to which communications relating to the appeal may be delivered .

7.—(1) Subject to sub-paragraph (4), the independent medical referee—

- (a) shall interview and medically examine the appellant at least once; and
- (b) may interview or medically examine him or cause him to be interviewed or medically examined on such further occasions as the independent medical referee thinks necessary for the purpose of deciding the appeal.

(2) The independent medical referee shall—

- (a) appoint; and
- (b) give the appellant and the Board not less than 21 days' notice of,

the time and place for every interview and medical examination; if the independent medical referee is satisfied that the appellant is unable to travel, the place shall be the appellant's place of residence.

(3) The appellant shall attend at the time and place appointed for any interview or medical examination by the independent medical referee.

(4) If—

- (a) the appellant fails to comply with sub-paragraph (3); and

- (b) the independent medical referee is not satisfied that there was reasonable cause for the failure,

the independent medical referee may dispense with the interview or medical examination required by sub-paragraph (1)(a) or, as the case may be, with any further interview or medical examination required by sub-paragraph (1)(b), and may decide the appeal on such information as is then available.

(5) Any interview under this paragraph may be attended by persons appointed for the purpose by the Board or by the appellant or by each of them.

8.—(1) Where either party to the appeal intends to submit written evidence or a written statement at an interview held under paragraph 4, the party shall, subject to sub-paragraph (2), submit it to the independent medical referee and to the other party not less than 7 days before the date appointed for the interview.

(2) Where any written evidence or statement has been submitted under sub-paragraph (1) less than 7 days before the date appointed for the interview, any written evidence or statement in response may be submitted by the other party to the independent medical referee and the party submitting the first-mentioned evidence or statement at any time up to, and including, that date.

(3) Where any written evidence or statement is submitted in contravention of sub-paragraph (1), the independent medical referee may postpone the date appointed for the interview and require the party who submitted the evidence or statement to pay such reasonable costs of the independent medical referee and of the other party as arise from the postponement.

9. The independent medical referee shall supply the Department with a written report of his decision on the relevant medical issues and the Department shall supply a copy of the report to the appellant and to the Board.

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

- (a) such fees as are determined in accordance with arrangements made by the Department; or
- (b) where no such arrangements have been made, such fees and allowances as the Department may from time to time determine.

(2) Any fees and allowances payable to the independent medical referee under sub-paragraph (1) shall—

- (a) be paid by the Board; and
- (b) be treated for the purposes of paragraph 8 as part of the Board's expenses.

11.—(1) Subject to paragraph 5(3) and sub-paragraphs (2) to (6), the expenses of each party to the appeal shall be borne by that party.

(2) Where the independent medical referee—

- (a) decides in favour of the Board; and
- (b) reports that in his opinion the appeal was frivolous, vexatious or manifestly ill-founded,

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

(3) Where the appellant gives notice to the independent medical referee of withdrawing the appeal within 21 working days of the date appointed for an interview by the independent medical referee under paragraph 4(2), the Board may require the appellant to pay it such sum, not exceeding the total amount of fees and allowances payable to the independent medical referee under paragraph 7(1) as it thinks fit.

(4) Where the independent medical referee—

- (a) decides in favour of the appellant, and

(b) does not otherwise direct,  
the Board shall refund to the appellant the amount specified in sub-paragraph (5).

(5) The amount is the total of—

- (a) any personal expenses actually and reasonably incurred by the appellant in respect of any interview under paragraph 4; and
- (b) if any such interview was attended by a qualified medical practitioner appointed by the appellant, any fees and expenses reasonably paid by the appellant in respect of such attendance.

(6) For the purposes of sub-paragraphs (2) and (4) any question arising as to whether the independent medical referee's decision is in favour of the Board or of the appellant shall be decided by the independent medical referee, or in default by the Department.

12. Any notice, information or document which an appellant is entitled to receive for the purposes of this Part shall be deemed to have been received by him if it was duly posted in a letter addressed to him at his last known place of residence.