

SCHEDULE 6

Regulation 31

MEDICAL APPEALS

1. Every notice of appeal under regulation 31(1) and statement of grounds under regulation 31(2) shall be in writing.

2. On receiving a notice of appeal against a report issued under regulation 30 and the appellant's statement of grounds for appeal, the police authority, unless regulation 32(2) applies, shall forward to the Scottish Ministers copies of appeal and all other documents that are determined as necessary by the Scottish Ministers.

3. The Scottish Ministers shall refer an appeal to a board of medical referees and shall supply them with copies of the police authority's decision, the report of the selected medical practitioner, the appellant's notification of appeal and the appellant's written statement of the grounds for appeal, and any other relevant information.

4.—(1) The board of medical referees shall consist of not less than 3 medical practitioners appointed by, and in accordance with, arrangements approved by the Scottish Ministers, provided that—

- (a) at least 1 member of the board of medical referees shall be a specialist in a medical condition relevant to the appeal;
- (b) 1 member of the board of medical referees will be appointed chairman; and
- (c) where there is an equality of voting among members of the board of medical referees, the chairman shall have a second or casting vote.

(2) The board of medical referees shall appoint a time and place for interviewing the appellant and for any such further interviews or medical examinations as it may consider necessary and shall give not less than 21 days notice thereof to the appellant and police authority.

5.—(1) Where either party to the appeal intends to submit written evidence or a written statement at an interview, that party shall, subject to sub paragraph (2), submit it to the board of medical referees, the other party and the Scottish Ministers not less than 10 days before the date appointed for the interview.

(2) Where any written evidence or statement has been submitted under sub paragraph (1), any written evidence or statement in response may be submitted by the other party to the board of medical referees and the party submitting the first-mentioned evidence or statement and the Scottish Ministers at any time not less than 5 days before the date appointed for the interview.

(3) Where any written evidence or statement is submitted in contravention of sub paragraphs (1) or (2) the board of medical referees may postpone or adjourn the date appointed for the interview.

(4) References in sub paragraphs (1) and (2) to periods of days shall exclude weekends and public holidays.

6.—(1) Any interview (including any medical 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 medical examination.

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

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

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

7. The board of medical referees shall supply the police authority, the appellant and the Scottish Ministers with a written statement of its decision and where the board of medical referees disagrees with any part of the selected medical practitioner's report, the board of medical referees shall supply a revised report.

8.—(1) There shall be paid to the board of medical referees—

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

(2) Any fees and allowances payable to the board of medical referees under sub paragraph (1) shall be paid by the police authority and shall be treated as part of the expenses of the police authority for the purposes of this Schedule except that any fees and allowances payable in consequence of—

- (a) the withdrawal or postponement of an interview; or
- (b) a postponement or adjournment which is the result of any written evidence or statement being made to the board of medical referees outwith the time limits specified in paragraph 5 above,

may be recovered, in whole or in part, by the police authority from the party or parties whose actions or omissions resulted in the withdrawal, postponement or adjournment of the interview.

9.—(1) Save as hereinafter provided, the expenses of each party to the appeal shall be borne by that party.

(2) Where the board of medical referees decides in favour of the police authority and reports that in its opinion the appeal was frivolous or vexatious, the authority may require the appellant to pay towards the cost of the appeal such sum not exceeding the board of medical referees total fees and allowances as the authority think fit.

(3) Where the board of medical referees decides in favour of the appellant, the police authority shall refund to the appellant any expenses actually and reasonably incurred by the appellant in respect of any such interview or medical examination as is mentioned in paragraph 4.