

---

STATUTORY INSTRUMENTS

---

**1987 No. 257**

**The Police Pensions Regulations 1987**

**Part H**

**Appeals and Medical Questions**

**Reference of medical questions**

**H1.**—(1) Subject as hereinafter provided, 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 police authority.

(2) Where the police authority are considering whether a person is permanently disabled, they shall refer for decision to a duly qualified medical practitioner selected by them the following questions—

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

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

(3) A police authority, if they are considering the exercise of their powers under Regulation K3 (*reduction of pension in case of default*), shall refer for decision to a duly qualified medical practitioner selected by them the question whether the person concerned has brought about or substantially contributed to the disablement by his own default.

(4) The decision of the selected medical practitioner on the questions referred to him under this Regulation shall be expressed in the form of a certificate and shall, subject to Regulations H2 and H3, be final.

**Appeal to medical referee**

**H2.**—(1) Where a person has been informed of the determination of the police authority on any question which involves the reference of questions under Regulation H1 to a selected medical practitioner, he shall, if, within 14 days after being so informed or such further period as the police authority may allow, he applies to the police authority for a copy of the certificate of the selected medical practitioner, be supplied with such a copy.

(2) If the person concerned is dissatisfied with the decision of the selected medical practitioner as set out in his certificate, he may, within 14 days after being supplied with the certificate or such longer period as the police authority may allow, and subject to and in accordance with the provisions of Schedule H, give notice to the police authority that he appeals against the said decision, and the police authority shall notify the Secretary of State accordingly, and the Secretary of State shall

appoint an independent person or persons (hereafter in these Regulations referred to as the “medical referee”) to decide the appeal.

(3) The decision of the medical referee shall, if he disagrees with any part of the certificate of the selected medical practitioner, be expressed in the form of a 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 medical referee shall, subject to the provisions of Regulation H3, be final.

#### **Further reference to medical authority**

**H3.**—(1) A court hearing an appeal under Regulation H5 or a tribunal hearing an appeal under Regulation H6 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 court or the tribunal may direct, and the medical authority shall accordingly reconsider his decision and, if necessary, issue a fresh certificate which, subject to any further reconsideration under this paragraph, shall be final.

(2) The police authority and the claimant may, by agreement, refer any final decision of a medical authority who has given such a decision to him for reconsideration on fresh evidence, and he shall accordingly reconsider his decision and, if necessary, issue a fresh certificate, which, subject to any further reconsideration under this paragraph or paragraph (1), shall be final.

(3) If a court or tribunal decide, or a claimant and the police authority 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 court or tribunal or, as the case may be, agreed upon by the claimant and the police authority, 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 a medical referee being made, and the medical referee, if there has been such an appeal.

#### **Refusal to be medically examined**

**H4.** If a question is referred to a medical authority under Regulation H1, H2 or H3 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 a medical referee, the police authority may make their determination on such evidence and medical advice as they in their discretion think necessary;
- (b) if the question arises on an appeal to a medical referee, the appeal shall be deemed to be withdrawn.

#### **Appeal by a member of a home police force**

**H5.**—(1) Where a member of a home police force, or a person claiming an award in respect of such a member, is aggrieved by the refusal of the police authority to admit a claim to receive as of right an award or a larger award than that granted, or by the forfeiture under Regulation K5 by the police authority of any award granted to or in respect of such a member, he may, subject to Regulation H7, appeal to the Crown Court and that court, after enquiring into the case, may make such order in the matter as appears to it to be just.

(2) In the case of a member of a Scottish police force, paragraph (1) shall have effect as if any reference to the Crown Court were a reference to the sheriff having jurisdiction in the place where the person concerned last served as such a member.

(3) The provisions of section 5(1) and (5) of the Police Pensions Act 1948<sup>(1)</sup> (*appeals*), as they have effect under section 12(2) of the Police Pensions Act 1976<sup>(2)</sup>, shall not apply in relation to an award under these Regulations.

### **Appeal by overseas policeman, inspector of constabulary or central police officer**

**H6.**—(1) This Regulation shall apply in relation to—

- (a) an overseas policeman;
- (b) an inspector or assistant inspector of constabulary, or
- (c) a central police officer,

and any such person is hereafter in this Regulation referred to as an officer to whom this Regulation applies.

(2) Where an officer to whom this Regulation applies, or a person claiming an award in respect of such an officer, is aggrieved by the refusal of the Secretary of State as police authority to admit a claim to receive as of right an award or a larger award than that granted, or by the forfeiture under Regulation K5, by the Secretary of State as police authority, of any award granted to or in respect of such an officer, he may, subject to Regulation H7, give notice of appeal to the Secretary of State; and any such notice shall be in writing and shall specify the grounds of the appeal.

(3) The Secretary of State, on receiving such notice of appeal, shall appoint an appeal tribunal (hereafter in this Regulation referred to as the tribunal), consisting of 3 persons, including a barrister or solicitor of not less than 7 years' standing and a retired member of a police force who, before he retired, held a rank not lower than that of superintendent.

(4) 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 Secretary of State as police authority (hereafter in this Regulation described as the parties).

(5) 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.

(6) In the case of an appeal under this Regulation the tribunal shall have regard to the practice of the Crown Court in the case of an appeal under Regulation H5 and the rules of evidence applicable in the case of such an appeal shall apply in the case of an appeal under this Regulation.

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

(8) 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.

(9) 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.

(10) In the case of an officer to whom this Regulation applies and who—

- (a) in the case of an overseas policeman or a central police officer, immediately before becoming such, was a member of a Scottish police force, or

---

(1) 1948 c. 24.

(2) 1976 c. 35.

- (b) in the case of an inspector or assistant inspector of constabulary, was appointed (or treated as appointed) under section 33 or 34 of the Police (Scotland) Act 1967<sup>(3)</sup>;

this Regulation shall have effect as if—

- (i) any reference to a barrister were a reference to an advocate, and  
(ii) any reference to the Crown Court or the High Court were a reference to the sheriff or, as the case may be, the Court of Session.

### **Limitations on appeals**

**H7.**—(1) An appeal shall not lie under Regulation H5 or H6 against anything done by a police authority in the exercise of a power conferred by these Regulations which is expressly declared thereby to be a power which they are to exercise in their discretion.

(2) Subject to Regulation H3(1), in any proceedings under Regulation H5 or H6 the court or tribunal shall be bound by any final decision of a medical authority within the meaning of Regulation H3.

---

(3) 1967 c. 77.