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STATUTORY INSTRUMENTS

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**1997 No. 2309**

**FIRE SERVICES  
SUPERANNUATION**

**The Firemen's Pension Scheme (Amendment) Order 1997**

*Made* - - - - *25th September 1997*  
*Laid before Parliament* *3rd October 1997*  
*Coming into force* - - *1st November 1997*

In exercise of the powers conferred upon him by section 26 of the Fire Services Act 1947<sup>(1)</sup>, the Secretary of State, with the approval of the Treasury<sup>(2)</sup> and after consultation with the Central Fire Brigades Advisory Council and the Scottish Central Fire Brigades Advisory Council, hereby makes the following Order:

**1.** This Order may be cited as the Firemen's Pension Scheme (Amendment) Order 1997 and shall come into force on 1st November 1997, except in respect of an appeal where notice of it has been given to the fire authority before that date.

**2.—(1)** The Schedule to this Order has effect for varying the scheme set out in Schedule 2 to the Firemen's Pension Scheme Order 1992<sup>(3)</sup>.

(2) A reference in Part I of the Schedule to this Order to a numbered rule is a reference to the rule identified by that number in that Scheme.

(3) A reference in Part II of the Schedule to this Order to a paragraph is a reference to a paragraph in Part I of Schedule 9 to that Scheme.

Home Office  
24th September 1997

*George Howarth*  
Parliamentary Under-Secretary of State

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(1) 1947 c. 41; section 26 was amended and extended by the Fire Services Act 1951 (c. 27), section 1; by the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951 (c. 65), section 42; and by the Superannuation Act 1972 (c. 11), sections 12 and 16.  
(2) See S.I. 1981/1670.  
(3) S.I. 1992/129.

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**Status:** *This is the original version (as it was originally made). UK  
Statutory Instruments are not carried in their revised form on this site.*

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We approve

25th September 1997

*Jim Dowd*  
*Graham Allen*  
Two of the Lords Commissioners of Her  
Majesty's Treasury

SCHEDULE

Article 2

**Amendments to the 1992 Scheme**

**PART I:**

**AMENDMENTS TO RULES**

1. In rule A15(2) (compulsory retirement on grounds of disablement) for the words “medical referee” there shall be substituted “board of medical referees appointed under Part I of Schedule 9”.

2.—(1) For the heading describing rule H2 (appeal to medical referee) there shall be substituted “Appeal against opinion on a medical issue”.

(2) At the end of paragraph (1) of rule H2 there shall be inserted “, together with a statement informing the person concerned that, if he wishes to appeal against the opinion, he must give the authority written notice of his grounds of appeal, together with his name and address, within 14 days of the date on which he is so supplied”.

(3) For paragraph (2) of rule H2, there shall be substituted—

“(2) If the person concerned is dissatisfied with the opinion which has been supplied to him under paragraph (1), he may appeal against it by giving notice to the fire authority in accordance with paragraph 1 of Part I of Schedule 9.”.

**PART II:**

**AMENDMENTS TO PART I OF SCHEDULE 9**

3. Part I of Schedule 9 to the Scheme shall be amended as follows.

4. For the heading describing Part I (appeal to medical referee) there shall be substituted “APPEAL TO BOARD OF MEDICAL REFEREES”.

5. In paragraph 1(1)—

(a) after the words “notice of appeal” there shall be inserted “against an opinion of the kind mentioned in rule H1(2)”, and

(b) for the words “his place of residence” there shall be substituted “address”.

6. For paragraph 2(2) there shall be substituted—

“(2) The Secretary of State shall refer an appeal to a board of medical referees (“the board”) and shall supply them with a copy of the notice and a copy of the opinion.”.

7. After paragraph 2 there shall be inserted the following paragraph—

“**2A.**—(1) The board shall consist of not less than three medical practitioners appointed by, or in accordance with arrangements made by, the Secretary of State.

(2) One member of the board shall be a specialist in a medical condition relevant to the appeal.

(3) One member of the board shall be appointed as chairman.

(4) Where there is an equality of voting among the members of the board, the chairman shall have a second or casting vote.”.

8. For paragraph 3 there shall be substituted—

**3.** The board shall secure that the appellant and the fire authority (“the parties”) have been informed—

- (a) that the appeal is to be determined by it, and
- (b) of an address to which communications relating to the appeal may be delivered to the board.”.

**9.—(1)** In paragraph 4 for the word “referee”, wherever it occurs, there shall be substituted “board”.

(2) In paragraph 4(2)—

- (a) for the words “reasonable notice” there shall be substituted “not less than 21 days' notice”; and
- (b) for the word “he” there shall be substituted “the board”.

(3) In paragraph 4(3) before the words “any person” there shall be inserted “any member of the board or”.

**10.** For paragraphs 5 and 6 there shall be substituted—

**5.—(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 board 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 9 days before the date appointed for the interview, any written evidence or statement in response may be submitted by the other party to the board 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 board 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 board and of the other party as arise from the adjournment.

**6.** The board shall supply the Secretary of State with a written report of its decision on the relevant medical issues and the Secretary of State shall supply a copy of the report to the appellant and to the fire authority.”.

**11.—(1)** For paragraph 7(1) there shall be substituted—

“(1) There shall be paid to the board—

- (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) In paragraph 7(2) for the words “The fees and allowances” there shall be substituted “Any fees and allowances payable to the board under sub-paragraph (1)”.

**12.—(1)** In paragraph 8(1) after the words “Subject to” there shall be inserted “paragraph 5(3) and”.

(2) For paragraph 8(2) there shall be substituted—

“(2) Where the board—

- (a) decides in favour of the fire authority, and

(b) reports that in its opinion the appeal was frivolous, vexatious or manifestly ill-founded,

the fire authority may require the appellant to pay them such sum not exceeding the amount of the fees and allowances payable to the member of the board appointed under paragraph 2A(2), as they think fit.”

(3) In sub-paragraphs (3) and (5) of paragraph 8—

(a) for the word “referee”, wherever it occurs, there shall be substituted “board”, and

(b) for the word “referee's” there shall be substituted “board's”.

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#### **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order amends the provisions of the Scheme set out in Schedule 2 to the Firemen’s Pension Scheme Order 1992 relating to an appeal in respect of an opinion on a medical question obtained by the fire authority. It replaces the existing provisions whereby such an appeal is determined by a single medical referee with provisions providing for determination by a board consisting of three medical referees. Paragraph 10 of the Schedule to this Order makes fresh provision on the submission of written evidence relating to an appeal and paragraph 12 amends the provisions on costs.