

SCHEDULE

AMENDMENT OF THE FIREFIGHTERS' PENSION (WALES) SCHEME

23.—(1) In Schedule 9 (appeals), in Part 1 (appeal to board of medical referees)—

(a) for paragraph 1(1) substitute—

“**1.**—(1) Subject to sub-paragraph (2), written notice of appeal against a decision on an issue of a medical nature stating—

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

must be given to the fire and rescue authority within 28 days of the date on which the appellant receives the documents referred to in rule H2(4); and where the appellant receives those documents on different dates, they will be treated for this purpose as received on the later or latest of those dates.”;

(b) for paragraph 2 substitute—

“**2.**—(1) On receiving a notice of appeal, the authority must supply the Welsh Ministers with three 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 their possession or under their control which appears to them to be relevant to the issue that is the subject of the appeal.

(2) The Welsh Ministers must refer an appeal to a board of medical referees (“the board”).”;

(c) after paragraph 2A insert—

“**2B.**—(1) As soon as reasonably practicable after referring an appeal to the board, the Welsh Ministers must supply the board's administrator with three copies of every document supplied under paragraph 2(1).

(2) The board must arrange for one of their number to review those documents (“the reviewing member”).

(3) As soon as reasonably practicable after concluding the review, the reviewing member must give written notice to the Welsh Ministers—

- (a) of any other information which the reviewing member considers would be desirable so as to provide the board with sufficient information for the purpose of enabling the board to determine the appeal, and
- (b) if it be the case, that it is the reviewing member's opinion that the board may regard the appeal as frivolous, vexatious or manifestly ill-founded.

(4) On receipt of the reviewing member's notice the Welsh Ministers must—

- (a) where the reviewing member has notified the Welsh Ministers of the desirability of obtaining other information, require the authority to use their best endeavours to obtain that information, and
- (b) where the notice contains an opinion of the description mentioned in sub-paragraph (3)(b), send a copy of it to the authority.

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(5) An authority which receives a copy of a reviewing member’s opinion must, as soon as reasonably practicable—

- (a) send a copy of it to the appellant, and
- (b) by written notice to the appellant—
 - (i) advise the appellant that, if the appellant’s appeal is unsuccessful, the appellant may be required to pay the authority’s costs, and
 - (ii) require the appellant to notify them, within 14 days of the date of their notice, whether the appellant intends to pursue or withdraw the appeal.

(6) An authority which notifies an appellant under sub-paragraph (5)(b) must inform the Welsh Ministers of the appellant’s response to their request under sub-paragraph (5)(b)(ii); and the Welsh Ministers must notify the board accordingly.”;

- (d) in paragraph 3, for “The board shall secure”, substitute “Where an appeal is to be pursued, the board must secure”;
- (e) in paragraph 4, in sub-paragraph (2)(b) for “not less than 21 days’ notice of”, substitute “not less than two months’ notice of”;
- (f) after paragraph 6, insert—

“**6A.**—(1) Where the appellant and the fire and rescue authority have received a copy of the report supplied under paragraph 6 and—

- (a) the appellant and the authority (“the parties”) agree that the board has made an error of fact which materially affects the board’s decision;
- (b) the authority must within 28 days of receipt of the report, supply the Welsh Ministers with two copies of a statement agreed between the parties setting out—
 - (i) the error of fact;
 - (ii) the correct fact, and

invite the board to reconsider its decision.

(2) The Welsh Ministers must within 14 days of receipt of the statement supply a copy of it to the board.

(3) As soon as reasonably practicable after receiving the statement, the board must reconsider its decision.

(4) Within 14 days of that reconsideration the board must—

- (a) give written notice to the Welsh Ministers that it has confirmed its decision, or revised its decision (as the case may be), and
- (b) if it has revised its decision, supply the Welsh Ministers with a written report of its revised decision.

(5) The Welsh Ministers must supply to the appellant and the authority a copy of the written notice confirming the board’s decision, or a copy of the written report of the board’s revised decision (as the case may be).”;

(g) in paragraph 8—

(i) for sub-paragraph (2) substitute—

“(2) Where the board—

- (a) decides an appeal in favour of the fire and rescue authority, and
- (b) reports that in its opinion the appeal was frivolous, vexatious or manifestly ill-founded,

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the fire and rescue authority may require the appellant to pay them such sum, not exceeding the total amount of the fees and allowances payable to the board under paragraph 7(1), as the authority think fit.”; and

(ii) for sub-paragraph (2A) substitute—

“(2A) Where—

(a) the appellant gives notice to the board—

(i) withdrawing the appeal;

(ii) requesting cancellation of, postponement of, or adjournment of the date appointed for an interview or medical examination under paragraph 4(2), and

the notice is given less than 22 working days before the date appointed under paragraph 4(2); or

(b) the appellant’s acts or omissions cause the board to cancel, postpone or otherwise adjourn the date appointed under paragraph 4(2) less than 22 working days before the date so appointed,

the authority may require the appellant to pay them such sum, not exceeding the total amount of the fees and allowances payable to the board under paragraph 7(1), as the authority think fit.”; and

(h) omit Part 2 (appeal tribunals).