



SCOTTISH PUBLIC PENSIONS AGENCY

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Clerks to the Joint Boards
Firemasters

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Our ref: AZN/1

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Dear Sir or Madam

SCOTTISH FIRE SERVICE CIRCULAR No 7/2002

FIREFIGHTERS PENSION SCHEME

This circular advises fire authorities of the following matters and provides guidance where changes are to be implemented:

- A. The responsibilities of the Regional Boards of Medical Referees and of Fire Authorities. This follows earlier advice given in Fire Service Circular 1/2002.
- B. The Commentary about the FPS on the ODPM website.

These items should be brought to the attention of your fire authority, pension managers, brigade medical officers/occupational health managers and Human Resources; and in relation to section B to all members of the Firemen's Pension Scheme.

1. A REGIONAL BOARDS OF MEDICAL REFEREES

- 1. Scottish Fire Circular 1/2002 advised that as a result of a Crown Court judgement in an appeal under Rule H3 against a determination made by a Board of Medical Referees, Regional Boards of Medical Referees should be asked only to consider medical issues. This meant that on degree of disablement cases a Board's role would be limited to considering the impact of the appellant's incapacity on his/her future employability and in determining the type of work which it considers he/she is capable of doing on the basis of the medical evidence of his/her condition. Once that determination had been made, the fire authority would need to consider the degree of disablement. This in turn had implications in cases where Brigade Medical Officers advised on the degree of disablement.
- 2. The Office of the Deputy Prime Minister (ODPM) who took over responsibility for the Fire Policy Division in England and Wales from the Department of Transport and Local Government Regions (DTLR) considered whether they should join in any appeal to the Crown Court that the fire authority concerned wished to make. It was decided not to do so

and following that decision this Fire Service Circular is to advise you on how you should proceed in future with degree of disablement cases.

3. On the basis of legal advice taken by ODPM, guidance has been given to the Boards of Medical Referees that, on the basis of the Cambridgeshire judgement, they are not prohibited from considering the non medical aspect of a case: it is simply that the fire authority is not bound by the Board's conclusions on non-medical aspects. Accordingly, Boards will continue to operate as they have done in the past but will make it clear that a fire authority is not bound by the Board's conclusions on non-medical issues, e.g. in relation to the earning potential of the appellant.
4. In future there should also be a clear distinction between (1) the medical issues to be considered by the fire authorities' selected medical advisor and (2) non-medical issues e.g. potential earnings as non-firefighter by reference to skills, qualifications etc, which should be decided by the fire authority (or a relevant person under delegated powers) on the advice of a person with the necessary qualifications and/or experience, e.g. personnel officer.
5. Model Medical Certificate B attached to Fire Service Circular 6/1997, issued on 17 October 1997, places what are now considered to be non-medical aspects of the assessment of the degree of disablement above the signature of the medical advisor. The use of this model should be discontinued.
6. Instead the fire authority should:
 - Use a medical certificate which offers questions and answers to medical issues only; and
Pass to the Brigade Personnel Officer to prepare an assessment which takes the medical opinion into account and, by reference to that medical opinion, sets out a calculation of the degree of disablement for purposes of assessing the injury having regard to the skills, qualifications and training that the person has.
 - It will be necessary to ensure that the occupations selected are within the medical capability of the person by reference to the medical practitioner. Therefore, once the assessment documents are completed by the Personnel Officer the assessment should be referred back to the medical practitioner (under case conference) to ensure that the occupations selected are within the medical capability of the person. (The medical practitioner should not be asked to comment on non-medical capability). Such a check would ensure that the selected occupations have not over-estimated the firefighter's capability for further employment.
 - Next a rate of pay for the suggested employments must be decided. A reference to a source such as the "New Earnings Survey" as published by the Office of National Statistics can provide this information.
 - A copy of the new model certificates B and A are attached. Model Certificate A has been reviewed; it is to be used in the case of a serving regular firefighter for consideration of an ill-health award only (i.e. where there is no question of injury and, therefore, no entitlement to benefits under the FPS).
 - Also attached is a model form on which the degree of disablement can be assessed. A new Medical Certificate G has been introduced – for use in the case of a serving retained firefighter for consideration of ill-health retirement (no award). This is attached.

- In due course further certificates and model forms will be added.
- It is intended that these model certificates should be included in Annexe 7 of the Commentary on the FPS on the ODPM website.
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B THE COMMENTARY -“WHAT’S NEW?”

7. The commentary was placed on ODPM’s (then DTLR) website in February 2002. Since then a number of updates to the Commentary have been made. The first updates were made to the website on 14 April 2002 to the following sections: Introduction, Part B, Part G, Annexes 1,2,8,10 and 14. A second update was made on 14.6.2002 to: -
 - reflect change from Department of Transport Local Government and the Regions to the Office of the Deputy Prime Minister.
 - Contracted Out Employment Group to National Insurance Services to Pensions Industry (within the Inland Revenue National Insurance Contributions Office).
 - Fire Policy Unit to Fire Policy Division (see section C below).
 - Department of Social Security to Department of Work and Pensions.
8. A copy of the Amendments Page to the Commentary is attached for information.

Yours faithfully

Jim Preston

2. AMENDMENTS TO COMMENTARY

LIST OF AMENDED PAGES

The provisions of the Firefighters' Pension Scheme, are changing all the time. Sometimes an amendment will be made to the Firemen's Pension Scheme Order, sometimes a court case will offer an interpretation. Other legislation which affects the way in which the Firefighters' Pension Scheme works may be amended, too. Or the responsibility for the Scheme or for State benefits is moved between government departments. These, and other changes, may require an amendment to pages of the Commentary. This Section explains which pages have been amended, why and when.

2.1
2.2

AMENDMENTS List of amended pages

Amendments made at	Section	Page	Amendment
29.10.2001	Annexe 14 Annexe 14	Annexe 14-138 Annexe 14-139	Correction Correction
14.4. 2002	Introduction Part B Part B Part B Part B Part G Part G Annexe 1 Annexe 2 Annexe 8 Annexe 8 Annexe 8 Annexe 10 Annexe 10 Annexe 12 Index Index	Introduction-Chart 1 B6-1 B6-Example 1 B Gen 2-3 B Gen 2-4 G2-2 G3-2 Annexe 1-5 Annexe 2-13 Annexe 8-1 Annexe 8-6 Annexe 8-7 Annexe 10-5 Annexe 10-Example 1 Annexe 12-1 Index-9 Index-10	Addition of ref. to S2P Amendment SERPS/S2P Amendment SERPS/S2P Amendment SERPS/S2P Amendment to accommodate additional text Amendment SERPS/S2P Amendment SERPS/S2P Addition for re. to S2P Addition for ref. to FSC 2/2002 Amendment SERPS/S2P Amendment SERPS/S2P Amendment SERPS/S2P Amendment SERPS/S2P Amendment SERPS/S2P New OPAS telephone number Inclusion of S2P Addition to accommodate above
18.4.2002	Annexe 14 Annexe 14 Annexe 14	Annexe 14-69 Annexe 14-72 Annexe 14-76	Amendment SERPS/S2P Amendment SERPS/S2P Amendment SERPS/S2P
25.4.2002	Annexe 2	Annexe 2-13	Addition of FSC 3/2002
14.6.2002	Front page	Front page	Change from DTLR to ODPM

14.6.2002	Introduction Introduction Introduction Part A Part A Part B Part E Part F Part F Part H Part H Part H Part H	Introduction-4 Introduction-Chart 1 Introduction-Chart 1 ctd A1-1 A4-2 B6-Example 1 E9-2 F1-3 F1-Form 1 H2-2 H2-3 H2-7 H2-10	Change from DTLR to ODPM/Department Change from DTLR to ODPM/Department Change from DTLR to ODPM/Department Change from DTLR to ODPM/Department Change from DTLR to ODPM/Department Change from COEG to NISPI Change from DTLR to ODPM/Department Change from DTLR to ODPM/Department Change from DTLR to ODPM/Department Change from DTLR to ODPM/Department Change from DTLR to ODPM/Department Change from DTLR to ODPM/Department Change from DTLR to ODPM/Department
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Amendments-1

2.3 AMENDMENTS

List of amended pages

Amendments made at	Section	Page	Amendment
14.6.2002 (continued)	Part H Part H Part K Part L Annexe 2 Annexe 8 Annexe 8 Annexe 10 Annexe 10 Annexe 14 Annexe 14 Annexe 14 Annexe 14 Annexe 14 Annexe 14 Annexe 14 Annexe 14 Annexe 14 Annexe 14 Annexe 14 Annexe 14 Annexe 14 Annexe 14 Annexe 14 Annexe 14 Annexe 14 Annexe 14	H2-Form 2 H2-Form 4 K4-1 L3-3 Annexe 2-1 Annexe 8-7 Annexe 8-8 Annexe 10-1 Annexe 10-3 Annexe 14-16 Annexe 14-17 Annexe 14-18 Annexe 14-19 Annexe 14-20 Annexe 14-21 Annexe 14-23 Annexe 14-24 Annexe 14-28 Annexe 14-41 Annexe 14-45	Change from DTLR to ODPM/Department Change from DTLR to ODPM/Department Change from DTLR to ODPM/Department Change from COEG to NISPI Change from DTLR to ODPM/Department Change from COEG to NISPI Amendment SERPS/S2P Change from DSS to DWP Change from DSS to DWP Change from COEG to NISPI Change from COEG to NISPI Change from COEG to NISPI Change from COEG to NISPI Change from COEG to NISPI Change from COEG to NISPI Change from COEG to NISPI Change from COEG to NISPI Change from COEG to NISPI Change from COEG to NISPI Change from COEG to NISPI Change from COEG to NISPI Change from COEG to NISPI Change from COEG to NISPI Change from COEG to NISPI Change from COEG to NISPI
Amendments made at 16.7.2002	Amendments Amendments Amendments Legislation Legislation	Front Amendments-1 Amendments-2 Front Legislation-1	New New New New New

Amendments-2

- 3.
- 4.
- 5.
- 6.

7. ANNEXE 7

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MODEL MEDICAL CERTIFICATES

This Annexe contains model medical certificates together with explanatory notes.

10.

MEDICAL CERTIFICATE A: Serving regular firefighter – ill-health

This certificate, a copy of which appears on following pages, should be used for regular firefighters only. The comparable certificate for retained firefighters is Medical Certificate G.

A fire authority would issue this certificate for completion by the medical practitioner in circumstances where the authority have decided (on non-medical grounds) that there is no qualifying injury. If they believe that there could be a qualifying injury or are uncertain (because medical questions need to be answered) they should issue Medical Certificate B, instead of this certificate, to the medical practitioner.

The certificate should be completed as follows.

10.1.1 Page 1: Personal details

This section should be completed by the fire authority before issue to the medical practitioner.

10.1.2 Page 1: Details of incapacity

If this section is completed by the fire authority it should be checked by the medical practitioner to ensure it correctly matches his/her understanding of the medical condition. It may be better if completed by the medical practitioner.

The inclusion of this section should make it clear which areas of disability are considered in order to prevent the situation where a firefighter at appeal presents different ailments to those considered in the opinion.

If the firefighter requests, and is provided with a copy of the medical opinion, the firefighter should check that the details given here are as he/she understands them.

10.1.3 Page 2: Opinion

This is for completion by the medical practitioner. He/she should tick all appropriate boxes, having regard to the definitions of expressions where they are provided.

There is no question about injury here. This is because the fire authority have decided, before issuing the certificate to the medical practitioner, that there are no grounds for addressing the question of a qualifying injury in a medical context. If, subsequently, the firefighter believes he/she is entitled to an injury pension and none has been awarded, the right of appeal would be under Rule H3 – reconsideration of award by the authority and, failing satisfaction, an appeal to Crown Court. Because the question of injury is not raised in the medical opinion, it cannot be challenged via Rule H2 – appeal to a Board of Medical Referees against an opinion on a medical issue.

Point 6 allows the medical practitioner to suggest a date for review. It is for the fire authority, however, to decide if and when such a review should take place.

10.1.4 After completion of the certificate

After the medical practitioner has completed the certificate it should be passed to the fire authority who will consider the opinion and take appropriate action. If it is decided that the firefighter should retire on the ground that he/she is permanently disabled, the fire authority must determine under Rule H1 whether he/she is entitled to any awards under the Firefighters' Pension Scheme and if so, which. The firefighter can request a copy of the medical opinion within 14 days of being notified of the fire authority's decision.

If the firefighter is dissatisfied with the award and believes the problem lies in the medical opinion he/she can appeal against the opinion under Rule H2. If the firefighter is dissatisfied with the award and believes the problem does not lie in the medical opinion but in non-medical aspects of the fire authority's decision, he/she can appeal under Rule H3.

..... FIRE AUTHORITY

FIREMEN’S PENSION SCHEME ORDER 1992

**Rule H1: Opinion of Medical Practitioner
in respect of serving regular firefighter
for consideration of ill-health award**

PERSONAL DETAILS

Name of firefighter

Rank/post

Brigade number N I N u m b e r
.....

Date of birth Age
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Address
.....

Date entered Fire Service

DETAILS OF INCAPACITY

Nature of incapacity considered for the purpose of this opinion:

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10.3 A n n e x e

7 - 2

OPINION

I EXAMINED THE FIREFIGHTER ON (date) AND HAVE CONSIDERED:

(tick relevant boxes)

- checkbox the medical history held on brigade records
checkbox the medical history held by the firefighter's general practitioner
checkbox report(s) from -

MY OPINION IS THAT:

(tick relevant boxes)

- 1. The firefighter - checkbox is checkbox is not suffering from the incapacity detailed on page 1 of this document.
2. The firefighter - checkbox is checkbox is not disabled from performing the duties of a regular firefighter.
3. The disablement - checkbox is checkbox is not likely to be permanent.
4. The disablement - checkbox has checkbox has not been brought about, or contributed to, by the firefighter's own default
5. Comments -
6. Suggested date for review

Signed Date

MEDICAL CERTIFICATE B: Serving firefighter – ill-health/injury

This certificate, a copy of which appears on following pages, can be used in the case of a regular or retained firefighter. Point 5 on page 2 reflects the slight difference in terminology required.

A fire authority would issue this certificate for completion by the medical practitioner if the authority are satisfied that an injury has been received in circumstances where (subject to a medical opinion) it could be described as “qualifying” or where there is a question of doubt which can only be resolved by medical opinion. If they are satisfied that there are no grounds for considering the question of a qualifying injury, they should ask the medical practitioner to complete Certificate A (regular firefighter) or Certificate G (retained firefighter) instead.

The certificate should be completed as follows.

10.4.1 Page 1: Personal details

This section should be completed by the fire authority before issue to the medical practitioner.

10.4.2 Page 1: Details of incapacity

If this section is completed by the fire authority it should be checked by the medical practitioner to ensure it correctly matches his/her understanding of the medical condition. It may be better if completed by the medical practitioner.

The inclusion of this section should make it clear which areas of disability are considered in order to prevent the situation where a firefighter at appeal presents different ailments to those considered in the opinion.

If the firefighter requests, and is provided with a copy of the medical opinion, the firefighter should check that the details given here are as he/she understands them.

10.4.3 Page 1: Details of injury/injuries

As with the “Details of Incapacity” this should clearly state which injury or injuries are being considered.

10.4.4 Page 2: Opinion

This is for completion by the medical practitioner. He/she should tick all appropriate boxes, having regard to the definitions of expressions where they are provided.

Point 2 refers to the duties of a regular firefighter. This is the test even in the case of a retained firefighter. Rule J4 says that the person is to be treated as a regular firefighter under various Rules for award purposes.

Point 5, however, reflects the fact that Rule A9 uses different expressions for regular and retained firefighters when considering the question of default.

Point 6 would not be ticked by the medical practitioner if, in respect of Point 5, he/she states that the disablement has not been occasioned by an injury received without the firefighter’s own default in the execution/exercise of duties, etc. In such a case, the fire authority would not consider the injury to be “qualifying” for the purposes of an award, and so there would be no need for medical guidance on the extent to which the firefighter’s earning capacity had been affected. This applies only where an injury pension is awarded.

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MEDICAL CERTIFICATE B: Serving firefighter – ill-health/injury (continued)

10.12.1 Page 3: Assessment of disablement

This is for completion by the medical practitioner only if, in respect of Point 5 on Page 2, he/she states that the disablement has been occasioned by an injury received without the firefighter's own default in the execution/exercise of duties, etc. If not relevant, the medical practitioner should draw a line through this section and mark "Not Applicable".

Only medical issues should be considered, not skills, qualifications, etc.

The fire authority will take account of the views of the medical practitioner as set out here, when assessing the degree of disablement for injury award purposes. It is the fire authority that will take skills, qualifications, etc. into account as part of this later process.

10.12.2 Page 4: Comments on assessment of disablement

This is for completion by the medical practitioner only if, in respect of Point 5 on Page 2, he/she states that the disablement has been occasioned by an injury received without the firefighter's own default in the execution/exercise of duties, etc. If not relevant, the medical practitioner should draw a line through this section and mark "Not Applicable".

This section gives the medical practitioner an opportunity to elaborate on any medical issues not covered on page 3.

Again, only medical issues should be considered, not skills, qualifications, etc.

The fire authority will take account of the views of the medical practitioner as set out here, when assessing the degree of disablement for injury award purposes. It is the fire authority that will take skills, qualifications, etc. into account as part of this later process.

10.12.3 Page 4: Apportionment of contribution of injury to disablement

This is for completion by the medical practitioner only if, in respect of Point 5 on Page 2, he/she states that the disablement has been occasioned by an injury received without the firefighter's own default in the execution/exercise of duties, etc. If not relevant, the medical practitioner should draw a line through this section and mark "Not Applicable".

The medical practitioner can indicate here to what extent the injury, if it should be considered a "qualifying injury", contributed to the disability.

For example, the medical practitioner may be of the opinion that some other injury which cannot be classed as qualifying (e.g. off-duty) was the main cause of the disability, whereas the injury which may be considered as "qualifying" simply exacerbated it.

The fire authority will need to know this because, when they assess the degree of disablement, they must do so by reference to which the earning capacity has been affected as a result of the qualifying injury; if the earning capacity has been affected as a result of something else, this should be noted for assessment purposes.

10.12.4 Page 4: Suggested date for review

This section allows the medical practitioner to suggest a date for review. It is for the fire authority, however, to decide if and when such a review should take place.

10.13

10.14

10.15 Annexe 7-5

MEDICAL CERTIFICATE B: Serving firefighter – ill-health/injury (continued)

10.16.1 After completion of the certificate

After the medical practitioner has completed the certificate it should be passed to the fire authority who will consider the opinion and take appropriate action. If it is decided that the firefighter should retire on the ground that he/she is permanently disabled, the fire authority must determine under Rule H1 whether he/she is entitled to any awards under the Firefighters' Pension Scheme and if so, which.

If the fire authority decide that there is entitlement to an injury award, they should next assess the degree of disablement using "Assessment Form – Degree of Disablement". A copy of the Form with an explanation of how it should be used is given later in this Annex.

The firefighter can request a copy of the medical opinion within 14 days of being notified of the fire authority's decision. If an injury award is to be made, and degree of disablement has been calculated, a copy of the assessment of degree of disablement should be issued to the firefighter. This is not a requirement of the Firemen's Pension Scheme Order 1992 but the firefighter will need this information in case he/she is dissatisfied with the award or the amount of the award. By issuing both Medical Certificate B and the Assessment Form to the firefighter, he/she can judge where his/her grievance lies, i.e. in the medical opinion or in the fire authority's assessment, and use the appropriate appeal route.

If the firefighter is dissatisfied with the award and believes the problem lies in the medical opinion, he/she can appeal against the opinion under Rule H2.

If the firefighter is dissatisfied with the award and believes the problem does not lie in the medical opinion but in non-medical aspects of the fire authority's decision, he/she can appeal under Rule H3.

..... FIRE AUTHORITY

FIREMEN’S PENSION SCHEME ORDER 1992

**Rule H1: Opinion of Medical Practitioner
in respect of serving firefighter
for consideration of ill-health/injury award**

PERSONAL DETAILS

Name of firefighter

Rank/post

Brigade number N I N u m b e r
.....

Date of birth Age
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Address

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Date entered Fire Service

DETAILS OF INCAPACITY

Nature of incapacity considered for the purposes of this opinion:

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DETAILS OF INJURY/INJURIES

Nature of injury/injuries considered as possible qualifying injury in relation to the incapacity for the purpose of this opinion:

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10.19 A n n e x e

7 - 7

OPINION

I EXAMINED THE FIREFIGHTER ON (date) **AND HAVE CONSIDERED:**

(tick relevant boxes)

- the medical history held on brigade records
- the medical history held by the firefighter's general practitioner
- report(s) from –

MY OPINION IS THAT:

(tick relevant boxes)

1. The firefighter –

is is not

suffering from the incapacity detailed on page 1 of this document.
 2. The firefighter –

is is not

disabled from performing the duties of a regular firefighter.
 (“Disablement” means incapacity, occasioned by infirmity of mind or body, for the performance of duty)
 3. The disablement –

is is not

likely to be permanent.
 (“Permanent” means that at the time when the question arises for decision the disablement seems likely to be permanent)
 4. The disablement –

has has not

been brought about, or contributed to, by the firefighter's own default
 (To be answered in a medical context only)
 5. The disablement

has has not

been occasioned by the injury detailed on page 1 of this document and which was received

with without

the firefighter's own default in the execution of his/her duties as a regular firefighter

the exercise of his/her duties as a part-time member of a brigade

(To be answered in a medical context only. “Injury” includes disease”. An injury is treated as having been received without the default of the firefighter unless wholly or mainly due to his/her own serious and culpable negligence or misconduct. In the case of a person who has become permanently disabled, any infirmity of mind or body shall be taken to have been occasioned by an injury if the injury caused or substantially contributed to the infirmity.)
 6. For purposes of calculating the degree to which the firefighter's earning capacity has been affected as a result of the injury, account should be taken of the medical assessment detailed opposite and on page 4 of this document
- (This point should be ticked, and medical assessment provided, only where the opinion at Point 5 is that the disablement has been occasioned by an injury received without default in the execution/exercise of duties.)

ASSESSMENT OF DISABLEMENT

(Comments may be continued overleaf)

- (a) Mobility
(b) L i f t i n g a n d c a r r y i n g
(c) Driving
(d) T r a v e l l i n g r e s t r i c t i o n s
(e) Working at heights including climbing and working from ladders
(f) Working in confined spaces
(g) B e n d i n g a n d k n e e l i n g
(h) M a n u a l h a n d l i n g
(i) Speech (including communication skills)
(j) Vision
(k) Hearing
(l) Dizziness
(m) Episodes of loss of consciousness
(n) M e n t a l h e a l t h
(o) Concentration
(p) W o r k i n g a l o n e
(q) R e p e t i t i v e w o r k
(r) C o p i n g w i t h s t r e s s o r s
(s) D e a l i n g w i t h t h e p u b l i c

- (t) Stamina
.....
- (u) Hours which can be worked (*shift work, full-time, part-time*)
- (v) C o g n i t i v e i m p a i r m e n t
.....
- (w) Other problems (*social or environmental*)
- (x) Enabling options which should be considered
- (y) Health and safety implications

Medical Certificate B (Serving Firefighter: Ill-Health/Injury) Page 3

^{10.21}

10.22 A n n e x e

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COMMENTS ON ASSESSMENT OF DISABLEMENT

(This can be used by the medical practitioner to add to any comments on the previous page where there was inadequate space, or to add information not covered on the previous page. The comments must relate to medical issues only.)

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APPORTIONMENT OF CONTRIBUTION OF INJURY TO DISABLEMENT

- 100%
- Because of a pre-existing condition or injury not related to firefighting duties the contribution of the injury to the disablement (both as detailed on page 1 of this document) is:
..... %

Comments:

.....
.....

SUGGESTED DATE FOR REVIEW

.....

Signed Date

MEDICAL CERTIFICATE G: Serving retained firefighter – ill-health

This certificate, a copy of which appears on following pages, should be used for retained firefighters only. The comparable certificate for regular firefighters is Medical Certificate A.

A retained firefighter would not qualify for benefits under the Firefighters' Pension Scheme in the absence of a qualifying injury. Consequently there are no references to the Firemen's Pension Scheme Order 1992 in this certificate. However, because retained firefighters have NJC agreement for an extra-statutory right of appeal to the Board of Medical Referees, this certificate has been designed as a model certificate for use where ill-health retirement is to be considered.

A fire authority would issue the form to the medical practitioner if the authority have decided (on non-medical grounds) that there is no qualifying injury. If they believe that there could be a qualifying injury or are uncertain (because medical questions need to be answered) they should issue Medical Certificate B, instead of this certificate, to the medical practitioner.

The certificate should be completed as follows.

10.23.1 Page 1: Personal details

This section should be completed by the fire authority before issue to the medical practitioner.

10.23.2 Page 1: Details of incapacity

If this section is completed by the fire authority it should be checked by the medical practitioner to ensure it correctly matches his/her understanding of the medical condition. It may be better if completed by the medical practitioner.

The inclusion of this section should make it clear which areas of disability are considered in order to prevent the situation where a firefighter at appeal presents different ailments to those considered in the opinion.

If the firefighter requests, and is provided with a copy of the medical opinion, the firefighter should check that the details given here are as he/she understands them.

10.23.3 Page 2: Opinion

This is for completion by the medical practitioner. He/she should tick all appropriate boxes, having regard to the definitions of expressions where they are provided.

There is no question about injury here. This is because the fire authority have decided, before issuing the certificate to the medical practitioner, that there are no grounds for addressing the question of a qualifying injury in a medical context. If, subsequently, the firefighter believes he/she is entitled to an injury pension and none has been awarded, the right of appeal would be under Rule H3 – reconsideration of the award by the fire authority and, failing satisfaction, an appeal to Crown Court. Because the question of injury is not considered in the medical opinion, it cannot be challenged via Rule H2 – appeal to a Board of Medical Referees against an opinion on a medical issue.

Points 1 to 3 follow the wording of the Firemen's Pension Scheme Order 1992 even though the retained firefighter would not receive benefits under the Order in the absence of an injury. The test would still be whether or not the firefighter is permanently disabled from performing the duties of a firefighter. Here the reference is to "retained not "regular". The definitions of "disablement" and "permanence" as contained in the Order are used as guidelines. The question of default as contained in the regular firefighter's certificate (Medical Certificate A) has not been included. This does not have relevance to a retained firefighter in the absence of a qualifying injury.

MEDICAL CERTIFICATE G: Serving retained firefighter – ill-health (continued)

10.25.1 After completion of the certificate

After the medical practitioner has completed the certificate it should be passed to the fire authority who will consider the opinion and take appropriate action. If this certificate has been issued to the medical practitioner, the question of injury award has been considered by the fire authority but dismissed before seeking the medical opinion. In the absence of a qualifying injury a retained firefighter would not be eligible for an award under the Firefighters' Pension Scheme. If the firefighter believes that he/she is entitled to an injury award, the appeal route is set out in Rule H3 – reconsideration by the fire authority and, failing resolution to the firefighter's satisfaction, appeal to Crown Court.

If the absence of an injury award is not disputed but the firefighter disagrees with the opinion as to disability, an extra-statutory right of appeal applies. To enable this right of appeal, the fire authority should allow the firefighter to request, and be supplied with, a copy of the medical opinion. If the firefighter then wishes to use the extra-statutory right of appeal, the procedures for an appeal by a regular firefighter under Rule H2 should be followed. Although not covered by the Firemen's Pension Scheme Order 1992, it would be fair as part of this process to apply similar time limits for retained firefighters as those which apply to regular firefighters, i.e. to tell the firefighter he/she has 14 days after receiving details of the award in which to request a copy of the medical opinion and a further 14 days after receiving the medical opinion in which to make his/her appeal.

10.26

10.27 A n n e x e

7 - 1 2

..... FIRE AUTHORITY

**Opinion of Medical Practitioner
in respect of serving retained firefighter
for consideration of ill-health retirement**

PERSONAL DETAILS

Name of firefighter

Rank/post

Brigade number N I N u m b e r
.....

Date of birth Age
.....

Address
.....

Date entered Fire Service

DETAILS OF INCAPACITY

Nature of incapacity considered for the purpose of this opinion:

.....
.....
.....
.....
.....
.....
.....
.....
.....
.....
.....
.....

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OPINION

I EXAMINED THE FIREFIGHTER ON (date) AND HAVE CONSIDERED:

(tick relevant boxes)

- the medical history held on brigade records
- the medical history held by the firefighter’s general practitioner
- report(s) from –

.....
.....

MY OPINION IS THAT:

(tick relevant boxes)

1. The firefighter –

- is is not

suffering from the incapacity detailed on page 1 of this document.

2. The firefighter –

- is is not

disabled from performing the duties of a retained firefighter.

(“Disablement” means incapacity, occasioned by infirmity of mind or body, for the performance of duty)

3. The disablement –

- is is not

likely to be permanent.

(“Permanent” means that at the time when the question arises for decision the disablement seems likely to be permanent)

4. Comments –

.....
.....
.....
.....

Signed **Date**

Medical Certificate G (Serving Retained Firefighter: Ill-Health) Page 2

ASSESSMENT FORM (DEGREE OF DISABLEMENT)

This form, a copy of which appears on following pages, can be used by a fire authority (or a person with delegated powers) to assess the degree of disablement of a firefighter with a qualifying injury and who is awarded an injury pension. The amount of pension payable depends upon the degree of disablement.

The fire authority would use this form if they receive from the medical practitioner a Medical Certificate B completed to indicate at Point 5 of page 2 that in the medical practitioner's opinion the disablement has been occasioned by an injury received without the firefighter's own default in the execution of his/her duties as a regular firefighter (or in the exercise of his/her duties as a part-time member of a brigade). If, taking note of this opinion, the fire authority determine that the injury is a qualifying injury, they must consider the non-medical issues of degree of disablement.

Having regard to the medical information provided by the medical practitioner on pages 3 and 4 of Medical Certificate B the fire authority would complete the Assessment Form as follows.

10.31.1 Page 1: Personal details

This section should be completed by the fire authority.

For a serving firefighter "Date of leaving Fire Service" will be the proposed date of retirement.

The reference to "Current earnings for a regular firefighter of above rank/post" applies equally in the case of a retained firefighter. The Firemen's Pension Scheme Order 1992 requires that for injury award purposes a retained firefighter should be treated as a regular firefighter of equivalent rank, etc.

The earnings used should be current at the date of retirement for a serving firefighter. For "after-appearing" injury or in the case of review, the earnings should be current at the date of assessment.

10.31.2 Page 1: Details of qualifying injury

Note that the injury/injuries referred to in the Medical Certificate are here referred to as a "qualifying injury". Before the fire authority complete this Assessment Form they should have made such a determination.

The details given in this section should be the same injury/injuries as specified in the medical opinion.

10.31.3 Page 1: Medical opinion containing assessment of disablement

The medical opinion should be attached to the Assessment Form because the assessment should clearly take account of the medical opinion.

10.31.4 Page 2: Educational/vocational qualifications held

The fire authority should set out details in this section.

Page 2: Training with Fire Service

The fire authority should set out details in this section.

10.31.5 Page 2: Other courses/training

The fire authority should set out details in this section.

10.31.6 Page 3: Employment(s) before joining the Fire Service

The fire authority should set out details in this section.

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ASSESSMENT FORM (DEGREE OF DISABLEMENT) (continued)**Page 3: Other employments (during and after fire service where appropriate)**

The fire authority should set out details in this section. This would include approved secondary employment of regular firefighters, “main” employment of retained firefighters, and post-retirement employments if applicable.

Page 3: Occupations within capability based on qualifications, experience and training listed above and taking account of assessment of disability contained in medical opinion.

This is the section in which the fire authority must decide, in the context of the medical opinion and the information set out on pages 2 and 3 of the Assessment Form, what type of employment the person could reasonably be expected to undertake after retiring from employment as a firefighter. It should be within the person’s physical and mental capabilities and have regard to the skills, qualifications and training that the person has.

The completion of this section could be undertaken by the authority’s Personnel Officer, taking such guidance as he/she may feel appropriate. Once completed it should be referred back to the medical practitioner (under case conference) to ensure that the occupations selected are within the medical capability of the person. (The medical practitioner should not be asked to comment on non-medical capability.) Such a check would ensure that in selecting occupations there has been no over-estimation of the firefighter’s capacity for further employment.

Next a rate of pay for the suggested employments must be decided. A reference source such as the “New Earnings Survey” as published by the Office of National Statistics can provide this information.

10.33.1 Page 4: Assessment of degree of disablement

The fire authority should now have sufficient information to be able to perform the mathematical calculation required for assessment of degree of disablement. This section sets out the mathematical formula including, where appropriate, an adjustment for apportionment.

After completion of the Assessment Form

After the degree of disablement has been assessed the fire authority can give details of the award to the firefighter.

The firefighter can request a copy of the medical opinion within 14 days of being notified of the fire authority’s decision. If an injury award is to be made, and a degree of disablement has been calculated, although not a requirement of the Firemen’s Pension Scheme Order 1992, a copy of the Assessment Form should be issued to the firefighter together with the medical opinion. Then, if the firefighter is dissatisfied with the award, he/she can judge where his/her grievance lies, i.e. in the medical opinion or in the fire authority’s assessment.

If the firefighter is dissatisfied with the award and believes the problem lies in the medical opinion he/she can appeal against the opinion under Rule H2.

If the firefighter is dissatisfied with the award and believes the problem does not lie in the medical opinion but in non-medical aspects of the fire authority’s decision, he/she can appeal under Rule H3.

..... FIRE AUTHORITY

FIREMEN’S PENSION SCHEME ORDER 1992

Rule H1(1)(d): Assessment of degree of disablement

PERSONAL DETAILS

Name of (former) firefighter

Rank/post

Brigade number N I N u m b e r

Date of birth Age

Address

.....

.....

Date entered Fire Service Date of leaving Fire Service

Current earnings for a regular firefighter of above rank/post £

DETAILS OF QUALIFYING INJURY

Nature of qualifying injury which has affected earnings capacity :

.....
.....
.....
.....

**MEDICAL OPINION
CONTAINING ASSESSMENT OF DISABLEMENT**

See attached

10.36

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DETAILS OF QUALIFICATIONS/EXPERIENCE
Educational/vocational qualifications held:

Qualification	Subject	Grade	Dates

Training with Fire Service:

Details	Dates

Other courses/training:

Details	Dates

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Employment(s) before joining Fire Service:

Details	Dates

Other employments (during and after fire service where appropriate):

Details	Dates

**OCCUPATIONS WITHIN CAPABILITY BASED ON QUALIFICATIONS,
EXPERIENCE AND TRAINING LISTED ABOVE AND TAKING ACCOUNT
OF ASSESSMENT OF DISABILITY CONTAINED IN MEDICAL OPINION**

Details	Pay*

Comments

.....

*Taken from current "New Earnings Survey" published by Office of National Statistics

10.40

10.41 A n n e x e

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ASSESSMENT OF DEGREE OF DISABLEMENT

The degree to which the firefighter's earning capacity has been affected as a result of the qualifying injury is:

(A) £..... less (B) £..... x 100 = (C)

(A) £.....

(C) x (D) %
= (E) %

where –

(A) is current earnings relevant to regular firefighter's rank/post (see page 1 of this Form)

(B) is potential level of earnings as a non-firefighter after receiving the injury (see page 3 of this Form)

(C) is the unadjusted degree of disablement

(D) is the apportionment of contribution of injury to disablement (see page 4 of the Medical Opinion)

(E) is the degree of disablement

Signed Date

Position

Assessment Form (Degree Of Disablement) Page 4

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