1985 No. 288

FIRE SERVICES

Fire Services (Discipline) Regulations (Northern Ireland) 1985

Made . . . . . 21st October 1985

Coming into operation . . . 16th December 1985

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SCHEDULE

OFFENCES AGAINST DISCIPLINE

The Department of the Environment, in exercise of the powers conferred on it by Article 9(5) of the Fire Services (Northern Ireland) Order 1984(**a**) and of all other powers enabling it in that behalf, makes the following regulations:—

PART I

GENERAL

Citation and commencement

1.—(1) These regulations may be cited as the Fire Services (Discipline) Regulations (Northern Ireland) 1985 and shall come into operation on 16th December 1985.

Application and interpretation

2.—(1) These regulations shall apply to all members of the fire brigade, including persons whose employment is temporary, who are appointed on terms under which they are or may be required to engage in fire-fighting, or who are engaged in duties in connection with the reception, transmission or recording of calls for the assistance of the fire brigade or with the transmission of instructions regarding the provision of such assistance by the fire brigade.

(2) In these regulations —

"appeal committee" has the meaning assigned to it by regulation 14(2);

"disciplinary body" in relation to a particular case means the chief fire officer or disciplinary tribunal by whom the case falls to be heard under regulation 10(1) or an officer nominated to hear the case under regulation 10(3);

"disciplinary tribunal" has the meaning assigned to it by regulation 10(1)(*b*);

"investigating officer" has the meaning assigned to it by regulation 5;

"offence" has the meaning assigned to it by regulation 4;

"principal officer" means a member of the fire brigade holding the rank of assistant chief fire officer or above or the post of deputy chief fire officer.

(3) In these regulations, reference to the chief fire officer shall include a reference to the deputy chief fire officer acting in the absence of the chief fire officer.

(4) In these regulations, reference to the chief fire officer shall include a reference to an officer not below the rank of assistant chief fire officer to whom the chief fire officer's powers under the regulations have been delegated by the chief fire officer.

Revocation

3. The Fire Services (Discipline) Regulations (Northern Ireland) 1973(**b**) are revoked.

PART II

INVESTIGATION OF OFFENCES

Disciplinary offences

4. A member of the fire brigade commits an offence against discipline (hereinafter referred to as "an offence") if he commits an offence set out in the schedule.

(a) S.I. 1984/1821 (NI 11)
(b) S.R. & O. (NI) 1973 No. 399

Referral of reports or allegations to the investigating officer

5.—(1) Where a report or allegation is received from which it appears that a member of the fire brigade may have committed an offence, the matter shall be referred for investigation to an officer (hereinafter referred to as "the investigating officer") nominated by the chief fire officer or, in the case of a principal officer, by the Authority.

(2) The investigating officer shall be a uniformed officer of a rank not below the rank of the member subject to investigation and, in any event, not below the rank which comes next below the rank immediately below the chief fire officer.

(3) For the purposes of paragraph (2) the post of deputy chief fire officer shall be treated as a rank.

Preliminary investigation

6.—(1) Where from a preliminary investigation of the report or allegation, which shall include giving the member an opportunity to explain his conduct, the investigating officer, on hearing that explanation, if any, is of the opinion that—

(*a*) commission of the offence by that member is established; and

(*b*) the offence is so serious as to be capable of being punished only by dismissal; and

(*c*) no further investigation of the matter is called for,

he shall report to the chief fire officer or, in the case of a principal officer, the Authority, who may dismiss the member forthwith:

Provided that no member may be dismissed under this regulation unless he has been given the opportunity, either personally or through another member of the fire brigade, to explain his conduct to the chief fire officer or, as the case may be, the Authority.

(2) When a member is given the opportunity under paragraph (1) to explain his conduct to the investigating officer, the chief fire officer or the Authority, he shall be—

(*a*) informed that he is not obliged to say anything concerning the matter; and

(*b*) warned that any explanation he does make may be used in any subsequent disciplinary proceedings.

(3) If the chief fire officer, or, as the case may be, the Authority—

(*a*) on receiving such a report from the investigating officer; or

(*b*) after hearing the member's explanation;

considers that commission of the offence by him is not sufficiently established or would not merit dismissal they shall remit the case to the investigating officer for further investigation under regulation 8.

Appeal against dismissal arising out of a preliminary investigation

7. A member who has been dismissed under regulation 6(1) shall be entitled to appeal against the dismissal under regulation 13 or, as the case may be, 14 as if he had been dismissed after a hearing under regulation 10.

Further investigation

8. The investigating officer shall, save in the case of a preliminary investigation resulting in the dismissal of a member under regulation 6(1), as soon as practicable in writing—

(*a*) inform the member that he is the subject of an investigation;

(*b*) give him an opportunity to make a statement in reply; and

(*c*) warn him that he is not obliged to make a statement but that any statement he does make in reply may be used in disciplinary proceedings.

Formulation of charges

9.—(1) On completion of the investigation the investigating officer shall decide whether the member should be charged with an offence.

(2) If the investigating officer decides that the member should not be charged with an offence he shall so inform the member in writing.

(3) If the investigating officer decides that the member shall be charged with an offence he shall, as soon as possible, in writing charge the member, setting out the offence with which he is charged together with such particulars as will clearly show the precise nature of the alleged offence.

When the member is charged he shall also be given, as soon as possible, copies of any report or allegation on which the charge may be founded and any reports or statements made to the investigating officer in relation to the charge, notwithstanding that they may be confidential.

PART III

HEARINGS AND INTERNAL APPEALS

Hearing

10.—(1) Save as provided in paragraphs (2) and (3), where a member of the fire brigade has been charged with an offence under regulation 9(3), the case shall be heard as the chief fire officer may determine, by:—

(*a*) the chief fire officer; or

(*b*) the disciplinary tribunal that is to say, a committee of the Authority designated as such by the Authority.

(2) A case shall be heard by the disciplinary tribunal if either—

(*a*) the member is a principal officer; or

(*b*) the case is of a class or description which the Authority has directed should be so heard.

(3) Where, in the case of a member who is not a principal officer, the investigating officer is of the view that the nature of the alleged offence is such that it is unlikely to merit greater punishment than a reprimand he shall so inform the chief fire officer who shall nominate another officer to conduct the hearing.

(4) The chief fire officer (where a case falls to be heard by him) or the Authority (where a case falls to be heard by the discipinary tribunal) may appoint not more than 2 persons to act as assessors at the hearing.

(5) The chief fire officer (where a case falls to be heard by him) may at any time before its conclusion remit the case to the disciplinary tribunal for hearing or re-hearing.

(6) An officer nominated by the chief fire officer to conduct a hearing under paragraph (3) may at any time before the case is concluded remit the case to the chief fire officer for hearing or re-hearing.

Decision

11.—(1) At the conclusion of the hearing of a case, the disciplinary body shall either find the charge proved or dismiss the case.

(2) If the disciplinary body finds the charge proved it shall impose one of the disciplinary awards set out in regulation 12.

(3) As soon as possible after the disciplinary body has made a decision under paragraph (1) or (2) the accused shall be notified in writing of that decision.

Disciplinary awards

12.—(1) Subject to paragraph (2), where a charge is found to be proved one of the following disciplinary awards shall be imposed, namely—

(*a*) dismissal;

(*b*) requirement to resign from the fire brigade at the date when the award takes effect or such later date as may be specified in the award;

(*c*) reduction in rank;

(*d*) stoppage of pay or, in the case of a retained fireman, retaining fee;

(*e*) a reprimand; or

(*f*) a caution;

and separate awards shall be imposed for separate offences.

(2) An officer nominated to conduct a hearing under regulation 10(3) shall not impose an award other than those set out in paragraphs (1)(*e*) and (*f*).

(3) Where a member has been required to resign from the fire brigade and he has not resigned at the date specified in the award he shall be deemed to have been dismissed on that date.

(4) A stoppage of pay or retaining fee in respect of any one offence shall not continue after the expiration of 13 weeks from the date on which the award takes effect; and the amount of any stoppages (whether in respect of one or more offences) shall not exceed in the aggregate, in any pay or fee period, one-seventh of the pay or fee of the member for that period as determined in relation to his rank.

(5) Where the chief fire officer or the disciplinary tribunal, in deciding to impose a disciplinary award, other than a dismissal or a caution, under paragraph (1), is of the opinion that any further offence by the accused might warrant his dismissal they shall each be under a duty to issue a warning to him to that effect, and where such a warning is issued it shall be subject to appeal under these regulations as if it were an award under paragraph (1), save that—

(*a*) any decision on such an appeal shall be limited to allowing or dismissing the appeal; and

(*b*) the right of appeal to the Department under regulation 16 shall be limited to those cases where the award imposed itself carries such a right of appeal.

(6) Where a disciplinary award is imposed under paragraph 1(*e*) or (*f*) there shall be no right of appeal against either the finding or the award and the award shall take effect on the date when imposed or such later date as may be specified in the award.

(7) A disciplinary award imposed under paragraph 1(*a*) to (*d*) shall not take effect until—

(*a*) it has been confirmed on appeal under regulation 13 or 14, or

(*b*) the period for submitting notice of appeal under regulation 13(1) or 14(1) has expired.

(8) Where a disciplinary award has been confirmed as mentioned in paragraph (7)(*a*) or the period referred to in paragraph (7)(*b*) has expired without any notice of appeal being submitted, the award shall take effect forthwith or on such later date as may be specified in the award.