STATUTORY INSTRUMENTS

1985 No. 930

FIRE SERVICES

The Fire Services (Discipline) Regulations 1985

Made - - - - -	*17th June* 1985
Laid before Parliament	*2nd July* 1985
Coming into Operation	*16th December* 1985

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SCHEDULE: Code of Discipline

In exercise of the powers conferred on me by section 17 of the Fire Services Act 1947**(a)**, I hereby, after consultation and approval in accordance with subsection (4) of the said section 17, make the following Regulations:—

PART I

GENERAL

Citation, commencement and extent

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

(2) These Regulations shall not apply to a fire brigade maintained in Scotland.

Revocations and transitional provisions

2.—(1) Subject to paragraph (2), the Fire Services (Discipline) Regulations 1948**(b)**, the Fire Services (Discipline) Regulations 1949**(c)** and the Fire Services (Discipline) Regulations 1965**(d)** are hereby revoked.

(2) Without prejudice to section 16 of the Interpretation Act 1978**(e)**, in relation to a charge preferred before 16th December 1985 under Regulations revoked by paragraph (1), the said Regulations shall continue to have effect and nothing in these Regulations shall apply.

Application and interpretation

3.—(1) These Regulations shall apply to all members of a fire brigade, including persons whose employment is temporary only, 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 and recording of calls for the assistance of a brigade, and with the transmission of instructions regarding the provision of such assistance by a brigade.

(2) In these Regulations the following expressions have the meanings hereby respectively assigned to them that is to say:—

"appeal committee" has the meaning assigned thereto by Regulation 13(2);

"disciplinary body" in relation to a particular case means the chief officer or disciplinary tribunal by whom the case falls to be heard under Regulation 9 or an officer nominated to hear the case under paragraph (3) of that Regulation;

"disciplinary tribunal" and "disciplinary tribunal of the fire authority" have the meaning assigned to the latter expression by Regulation 9(1)(*b*);

"offence" has the meaning assigned thereto by Regulation 4;

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

"investigating officer" has the meaning assigned thereto by Regulation 5.

(a) 1947 c. 41, as amended by the Fire Services Act 1959 (c. 44).
(b) S.I. 1948/545.
(c) S.I. 1949/2161.
(d) S.I. 1965/578.
(e) 1978 c. 30.

(3) In these Regulations, any reference to a Regulation shall be construed as a reference to a Regulation contained in these Regulations and a reference to a paragraph shall be construed as a reference to a paragraph in the same Regulation.

(4) In these Regulations, any reference to a chief officer shall include a reference to the deputy chief officer acting in the absence of the chief officer.

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

PART II

INVESTIGATION OF OFFENCES

Disciplinary offences

4. A member of a fire brigade commits an offence against discipline (hereinafter in these Regulations referred to as "an offence") if he commits an offence set out in the discipline code contained in the Schedule hereto.

Investigation

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

(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, in that member's brigade, comes next below the rank immediately below chief officer.

(3) For the purposes of paragraph (2) the post of deputy chief officer, where it exists in a brigade, shall be treated as a rank.

Summary dismissal

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

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

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

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

he shall report accordingly to the chief officer or, in the case of a principal officer, the fire 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 a brigade, to explain his conduct to the chief officer or, as the case may be, the fire authority.

(2) Where a member is given an opportunity under paragraph (1) to explain his conduct to the investigating officer, the chief officer or the fire 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 officer, or, as the case may be, the fire authority—

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

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

consider 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 and, if necessary, action under Regulation 8.

(4) A member who has been dismissed under this Regulation shall be entitled to appeal against the dismissal under these Regulations as if he had been dismissed after a hearing under Regulation 9.

Right of Reply

7. The investigating officer shall, save in the case of a preliminary investigation under Regulation 6(1), as soon as possible (without prejudicing his or any other investigation of the matter) 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 any subsequent disciplinary proceedings.

Formulation of charges

8.—(1) On completion of an investigation other than a preliminary investigation under Regulation 6(1), 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, as soon as possible, 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 the member is charged together with such particulars as will clearly show the precise nature of the alleged offence.

(4) 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

9.—(1) Save as provided in paragraphs (2) and (3), where a member of a fire brigade has been charged with an offence under Regulation 8(3), the case shall be heard, as the chief officer may determine, by—

(*a*) the chief officer, or

(*b*) the disciplinary tribunal of the fire authority, that is to say, a committee of the fire authority designated as such by the authority or a sub-committee of such a committee.

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

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

(*b*) the case is of a class or description which the fire 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 officer, who shall nominate another officer to conduct the hearing.

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

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

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

Decision

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

(2) Subject to the following provisions of these Regulations, if the disciplinary body finds the charge proved it shall award one of the disciplinary awards set out in Regulation 11.

(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

11.—(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 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;

(*f*) a caution;

and separate awards shall be imposed for separate offences.

(2) An officer nominated to conduct a hearing under Regulation 9(3) shall not impose an award other than those set out in paragraph (1)(*e*) and (*f*).

(3) Where a member has been required to resign from the 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 a chief officer or a disciplinary tribunal, in deciding to impose a disciplinary award, other than 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 an 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 Secretary of State under Regulation 15 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 paragraphs (*a*) to (*d*) of paragraph (1) shall not take effect until—

(*a*) it has been confirmed on appeal under Regulation 12 or 13, or

(*b*) the period for submitting notice of appeal under Regulation 12 or 13 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.

(9) Paragraphs (7) and (8) do not apply in the case of a dismissal under Regulation 6.

Appeal to disciplinary tribunal

12.—(1) Where the case has been heard by the chief officer in the first instance or on remission under Regulation 9(6) and an award other than a reprimand or caution has been imposed, or where the chief officer has dismissed a member of a brigade under Regulation 6, the accused may, within 7 days of being notified that such an award has been imposed, submit to the chief officer written notice of appeal.

(2) An appeal under this Regulation shall be heard by the disciplinary tribunal of the fire authority.

(3) Subject to paragraph (4) any such appeal shall be by way of a re-hearing.

(4) Where the appeal is against the award alone and a transcript of the original hearing is available the disciplinary tribunal may, if it thinks fit, and with the consent of both parties, decide the appeal without a re-hearing.

(5) The disciplinary tribunal may allow the appeal, confirm the award or vary the award by the imposition of some other award.

(6) Where the disciplinary tribunal allows the appeal or varies the award under paragraph (5) its decision shall be substituted for the decision appealed against and any award which it imposes shall take effect from the date of the appeal decision or such later date as may be specified in the award.

(7) The decision of the disciplinary tribunal shall as soon as possible after it has been taken be notified in writing to the accused.

Appeal committee

13.—(1) Where the case has been heard by the disciplinary tribunal in the first instance or on remission under Regulation 9(5), and an award other than a reprimand or caution imposed, or where a fire authority has dismissed a principal officer under Regulation 6, the member concerned may within 7 days of being notified that such an award has been imposed submit to the disciplinary tribunal written notice of appeal.

(2) An appeal under this Regulation shall be heard by a committee of the fire authority (hereinafter in these Regulations referred to as "the appeal committee") none of whose members shall be members of the disciplinary tribunal.

(3) Paragraphs (3), (4), (5), (6) and (7) of Regulation 12 shall apply to an appeal under paragraph (1) as they apply to an appeal under paragraph (1) of that Regulation.

Representation

14.—(1) At the hearing of a case before the chief officer or an officer nominated by the chief officer, the accused shall be entitled to have the assistance in presenting his defence of a person selected by himself who shall be a member of a fire brigade:

Provided that the person so selected shall not be of a rank equal or superior to that of the officer hearing the case at first instance.

(2) At the hearing of a case before the fire authority or at any appeal before the disciplinary tribunal or appeal committee the accused shall be entitled to

the assistance in presenting his appeal of a person selected by himself, who need not be a member of a fire brigade.

PART IV

APPEAL TO SECRETARY OF STATE

Right of Appeal to Secretary of State

15.—(1) Where on appeal the disciplinary tribunal or the appeal committee has decided to impose or, as the case may be, confirm an award other than those specified in Regulation 11(1)(*d*), (*e*) or (*f*) the accused may appeal in writing to the Secretary of State within 14 days of receiving written notice of such decision or such longer period as the Secretary of State may allow.

(2) A statement of the grounds of appeal shall be submitted by the accused with the written notice of appeal or within 50 days, or such longer period as the Secretary of State may allow in any particular case, of receiving written notice of the decision of the disciplinary tribunal or appeal committee, as the case may be.

(3) If the accused fails to submit written grounds of appeal within the period referred to in paragraph (2) the Secretary of State shall be entitled to treat the notice of appeal as having been withdrawn.

Inquiries

16.—(1) The Secretary of State may in any case appoint one or more persons to hold an inquiry and report to him and shall do so where it appears to him that the case cannot properly be determined without hearing the evidence.

(2) The Secretary of State may also appoint not more than 2 persons to act as assessors at the inquiry.

Power to remit a case

17. The Secretary of State may at any time remit the case for further consideration by the disciplinary tribunal of the fire authority or the appeal committee, or, if an inquiry has been held, for further investigation by the persons appointed to hold the inquiry.

Decision of Secretary of State

18.—(1) The Secretary of State may allow the appeal, or dismiss the appeal or vary the award by the imposition of some other award appearing to him to be less severe.

(2) If the Secretary of State allows the appeal or varies the award, his decision shall take effect by way of substitution for the decision appealed against, and as from the date when the award took effect.

(3) The decision of the Secretary of State shall as soon as possible after it has been taken be notified in writing to the appellant and the fire authority against whom the appeal is made.

Leon Brittan,
One of Her Majesty's Principal
Secretaries of State.

Home Office.
17th June 1985.

SCHEDULE Regulation 4

CODE OF DISCIPLINE

1. *Disobedience to orders*, which offence is committed where a member of a fire brigade disobeys or, without reasonable cause, fails to carry out, any lawful order, whether in writing or not.

2. *Insubordination*, which offence is committed where a member of a fire brigade is insubordinate by word, act or demeanour.

3. *Abuse of authority*, which offence is committed where a member of a fire brigade's conduct towards another such member or a member of the public is oppressive or abusive.

4. *Absence from duty*, which offence is committed where a member of a fire brigade—

(*a*) without reasonable cause is absent from duty or is late for any parade, drill or other attendance; or

(*b*) without reasonable cause leaves his place of duty.

5. *Neglect of duty*, which offence is committed where a member of a fire brigade—

(*a*) without reasonable cause fails to attend to or carry out his duty promptly and diligently; or

(*b*) by carelessness or neglect suffers any loss, damage or injury to occur to any person or property; or

(*c*) fails to report any matter which it is his duty to report; or

(*d*) fails to make an entry, which it is his duty to make, in any book or document; or

(*e*) fails properly to account for, or to make a prompt and true return of, any money or property which comes into his possession as a result of his employment.

6. *Falsehood*, which offence is committed where a member of a fire brigade—

(*a*) knowingly or through wilful neglect makes any false, misleading or inaccurate oral or written statement or entry in any record or document made, kept or required for fire services purposes; or

(*b*) has knowingly or through wilful neglect made any false, misleading or inaccurate statement in connection with his appointment to a fire brigade.

7. *Misconduct in relation to official documents*, which offence is committed where a member of a fire brigade, without reasonable cause, destroys or mutilates any record or document made, kept or required for fire services purposes, or alters or erases or adds to any entry in such a record or document.

8. *Improper disclosure of information*, which offence is committed where a member of a fire brigade without proper authority communicates to any person information which he acquires in confidence as a member of a fire brigade.

9. *Corrupt or improper practice*, which offence is committed where a member of a fire brigade improperly uses, or attempts so to use, his position as a member of the fire brigade for his own private advantage or for the private advantage of some other person.

10. *Loss of, or damage to, fire authority property*, which offence is committed where a member of a fire brigade—

(*a*) wilfully or negligently causes any waste or loss of, or damage to, any property of the fire authority, or fails to take reasonable care thereof; or

(*b*) fails to report, as soon as is reasonably practicable, any loss of, or damage to, any property issued to, or used by, him or entrusted to his care.

11. *Unfit for duty*, which offence is committed where a member of a fire brigade renders himself unfit through drink or drugs or similar means for duties which he is or will be required to perform or which it is reasonable to foresee that he will have to perform.

12. *Criminal conduct*, which offence is committed where a member of a fire brigade has been found guilty by a court of law of a criminal offence, which—

(*a*) occurs in connection with his duties as a member of a fire brigade; or

(*b*) does not so occur but has a bearing on his suitability for his job; or

(*c*) is liable to bring the service into disrepute.

13. *Untidiness*, which offence is committed where a member of a fire brigade while on duty, or while off duty but wearing uniform in a public place, is without reasonable cause dirty or untidy in his person, clothing or personal equipment.

14. *Conduct prejudicial to discipline*, which offence is committed where a member of a fire brigade while on duty or in uniform acts in a manner which is, or is likely to be, prejudicial to the discipline of the brigade.

15. *Conduct prejudicial to the reputation of the brigade*, which offence is committed where a member of a fire brigade intentionally or recklessly and without reasonable cause acts in a manner which damages, or is likely to damage, the reputation of the brigade.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations, which are made under section 17 of the Fire Services Act 1947, and revoke and supersede the Fire Services Discipline Regulations 1948 (and amending Regulations of 1949 and 1965), provide for the maintenance of discipline in fire brigades under the 1947 Act. The changes of substance from the 1948 Regulations are described below.

Regulation 3(1) applies these Regulations to all members of a brigade who are liable to engage in fire fighting or who are fire control staff. Regulation 5 provides for the nomination of an officer to investigate alleged offences against discipline. There is provision in Regulation 6 for a preliminary investigation of the alleged offence, for summary dismissal in cases of gross misconduct (including, in both instances, the right to a hearing) and a right of appeal against such dismissal. Under Regulation 8 the investigating officer has the responsibility of deciding, at the end of an investigation, whether the member in question should be charged with an offence. Regulation 9 provides for cases involving members holding the rank of assistant chief fire officer or above or the post of deputy chief officer. Such cases, and such other cases as the chief fire officer determines, are to be heard in the first instance by a disciplinary tribunal consisting of a committee of the fire authority. Provision is also made, in Regulation 9, for minor cases, where the highest award likely is a reprimand, to be heard under a less formal procedure presided over by an officer nominated by the chief fire officer. Disciplinary awards to be made under such a procedure are limited to reprimand or caution. Regulation 11 provides for a final warning as to future conduct to be given with any disciplinary award other than a caution, except where the hearing is held by an officer nominated by the chief fire officer. Both the final warning and the award are to be subject to appeal. Reprimands no longer carry a right of appeal. Regulation 11 also provides that disciplinary awards carrying a right of appeal are not to take effect until they are confirmed on appeal or the time limit for appeal has expired. There is no longer any requirement, in the absence of an appeal, for disciplinary awards made by the chief fire officer to be confirmed by the fire authority. Regulation 13 provides a right of appeal to a committee of the fire authority (known as "the appeal committee") from a decision, at first instance, of the disciplinary tribunal. At each level of appeal the time limit for submitting an appeal is extended. Regulation 16 enables the Secretary of State to appoint not more than two persons to act as assessors at an inquiry held under that Regulation for the purpose of determining an appeal.

The Schedule to these Regulations sets out the code of discipline. The offence of falsehood (paragraph 6) specifically includes the making of a false, misleading or inaccurate statement in connection with appointment to a fire brigade. There is a separate offence of misconduct in relation to official documents (paragraph 7). It is now an offence to render oneself unfit for duty through drugs as well as drink (paragraph 11). There is a new offence of criminal conduct (paragraph 12) and, consequently, the offence of discreditable conduct is replaced by the separate offences of untidiness (paragraph 13), conduct prejudicial to discipline (paragraph 14) and conduct prejudicial to the reputation of the brigade (paragraph 15).

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