EXPLANATORY NOTE

(This Note is not part of the Regulations, but is intended to indicate their general purport.)

These Regulations amend the Fire Services (Conditions of Service) (Scotland) Regulations, 1948. Regulation 2 makes special provision for the hours of duty of the member of a fire brigade in charge of the control-room system. Regulation 3 together with the Schedule replaces with amendments the existing provisions relating to sick leave. It entitles a whole-time member of a brigade required to engage in fire-fighting duties to sick leave on full pay so long as he remains a member except where the sickness is attributable to employment undertaken in his off-duty time. After twelve months continuous sick leave paid sick leave becomes in certain circumstances discretionary. Other whole-time members of a brigade may be granted such paid sick leave as the fire authority determine. In addition to the existing list of deductions from the sick pay of a member of a brigade any increase in any allowance in respect of war injuries may also be deducted. Provision is also made for repayment to a fire authority of any sums in lieu of sick pay advanced to a fireman who receives damages from a third party consequent on an accident resulting in a fireman's absence on sick leave. Regulation 4 makes fresh provision for the payment of travelling expenses.

1953 No. 1086 (S. 90)

The Fire Services (Discipline) (Scotland) Regulations, 1953

Made - - - -	*6th July*, 1953
Laid before Parliament	*14th July*, 1953
Coming into Operation	*1st September*, 1953

In exercise of the powers conferred on me by subsection (1) of section seventeen of the Fire Services Act, 1947(a), I hereby make the following Regulations :—

PART I

Discipline

1. A member of a fire brigade commits an offence against discipline (hereafter in these Regulations referred to as an " offence ") if he commits one or more of the offences set out in the Schedule hereto.

2.—(1) The firemaster, if he decides that a member of the fire brigade shall be charged with an offence, shall as soon as possible cause him to be informed in writing of the charge together with such particulars as will leave the accused under no misapprehension as to the precise nature of the allegations on which the charge is based.

(2) The accused shall also be given as soon as possible copies of any report, complaint, or other written allegation on which the charge may be founded and any reports thereon, notwithstanding that they may be confidential.

(a) 10 & 11 Geo. 6. c. 41.

3.—(1) The accused shall be ordered to state in writing whether he admits or denies the charge and shall be allowed to give to the firemaster any explanation he may wish.

(2) The accused shall be allowed to state the names and addresses of any witness to relevant facts whom he may desire to give evidence at the hearing of the case.

(3) Any such witness who is a member of the fire brigade shall be ordered to attend at the hearing of the case and any other witness shall be given due notice that his attendance is desired and of the time and place of the hearing.

4.—(1) If the accused denies the charge, he shall, unless the firemaster is satisfied with any explanation which he has offered, be ordered to appear at the hearing of the case.

(2) The accused shall be entitled at the hearing to hear the evidence against him and have an opportunity of cross-examining the witnesses and of calling witnesses, giving evidence and making representations in his defence.

5.—(1) The fire authority may direct that any class or description of case shall be heard by them, but subject to any such direction the firemaster may decide either to hear the case himself or order the case to be heard by a tribunal consisting of one or more officers not being below the rank of Column Officer.

(2) If the firemaster decides to hear the case himself, he may order an officer or officers of the fire brigade to assist him to hear the case as assessors.

(3) The firemaster or the officer or officers ordered by him to hear the case are hereafter in these Regulations referred to as "the disciplinary tribunal".

(4) The disciplinary tribunal may at any time before the hearing is concluded refer the case for hearing, if the disciplinary tribunal is the firemaster, to the fire authority and, if the disciplinary tribunal is not the firemaster, to the firemaster.

(5) Where any case is referred for hearing under paragraph (4) of this Regulation the hearing shall be recommenced.

6. The disciplinary tribunal or, if the case is heard by the fire authority, the fire authority shall as soon as possible after the hearing of the case cause its decision to be notified in writing to the accused.

7. If the disciplinary tribunal is not the firemaster it shall only have power to impose a punishment of stoppage of pay, reprimand or caution.

8.—(1) If the disciplinary tribunal is not the firemaster and its decision is to impose a punishment of stoppage of pay or reprimand, its decision shall have no effect unless it is confirmed by the firemaster.

(2) If the disciplinary tribunal is the firemaster and his decision is to impose a punishment of dismissal, requirement to resign as an alternative to dismissal or reduction in rank, his decision shall have no effect unless it is confirmed by the fire authority.

(3) Any decision which requires confirmation may be confirmed with a reduction in the punishment.

(4) Where a decision is confirmed under the preceding paragraphs of this Regulation, it shall have effect from the date of the confirmation.

(5) The accused may, within three days of the notification to him of a decision of the disciplinary tribunal to impose a punishment other than a caution, appeal to the fire authority by giving notice in writing to that effect to the firemaster, and, where the decision is one which under paragraph (1) or (2) of this Regulation would have required confirmation, it shall, subject to such appeal, have effect without confirmation.

9.—(1) An appeal under paragraph (5) of Regulation 8 of these Regulations shall be heard by the fire authority.

(2) Any such appeal shall be by way of re-hearing, and paragraph (2) of Regulation 4 of these Regulations shall apply as it applies to the hearing of the case.

(3) After hearing an appeal the fire authority may either allow the appeal or dismiss the appeal with or without an increase or reduction in the punishment.

(4) If the fire authority increase the punishment, they may direct that the punishment shall take effect from a date later than that on which it took effect under the decision of the disciplinary tribunal and, if they do so, may give such directions as they think fit with respect to the period between those dates.

10. The fire authority shall as soon as possible after they have heard an appeal cause their decision to be notified in writing to the accused.

11. If the accused refuses or without sufficient cause fails to attend at the time and place appointed for hearing the case or, as the case may be, for hearing an appeal or is in legal custody, the hearing of the case or the appeal may be proceeded with and concluded in his absence.

12.—(1) At the hearing of a case 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 the fire brigade or, if the fire authority so permit, a member of another fire brigade:

Provided that if the disciplinary tribunal is not the firemaster the person so selected by the accused shall not be of a rank equal or superior to that of any member of the tribunal.

(2) At any appeal under the preceding provisions of these Regulations 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 II

Punishments

13. An offence may be punished by—

(*a*) dismissal;

(*b*) being required to resign as an alternative to dismissal forthwith or at such later date as may be specified;

(*c*) reduction in rank;

(*d*) stoppage of pay;

(*e*) reprimand;

(*f*) caution:

Provided that a stoppage of pay in respect of any one offence shall not continue after the expiration of three months from the date on which the imposition of the punishment takes effect and the amount of any stoppages (whether in respect of one or more offences) shall not exceed in the aggregate in any week one-seventh of the weekly pay of the offender.

PART III

Appeals to the Secretary of State

14.—(1) Where the punishment imposed is dismissal, requirement to resign as an alternative to dismissal or reduction to a rank other than the rank in the brigade immediately below the one from which he was reduced, the accused shall, if he gives notice in writing to the fire authority within seven days of their decision being notified to him, be entitled to appeal to the Secretary of State against the decision.

(2) The Secretary of State shall, unless it appears to him that the case is of such a nature that it can properly be determined without taking oral evidence, and may in any case, appoint one or more persons to hold an inquiry and report to him and shall after considering, where an inquiry has been held, the report of the person or persons who held the inquiry, either allow the appeal or dismiss the appeal with or without an increase or reduction in the punishment:

Provided that the Secretary of State may at any time remit a case for further consideration by the fire authority or, if an inquiry has been held, for further investigation by the person or persons who held the inquiry.

(3) Any inquiry held under this Regulation shall be by way of re-hearing and the procedure thereat shall, subject to the provisions of these Regulations and to any directions given by the Secretary of State, be such as the person holding the inquiry, or if there are two or more persons holding the inquiry the person presiding at the inquiry, may determine, and in particular any such inquiry may be held in private.

15. If the accused having been given not less than seven days' notice of the time and place fixed for the holding of an inquiry under the preceding Regulation does not appear at the time and place appointed or is in legal custody, the inquiry may proceed and be concluded in his absence.

16. At an inquiry held under this Part of these Regulations the accused shall be entitled to have the assistance in presenting his appeal of a person selected by himself who need not be a member of a fire brigade.

17. If the Secretary of State dismisses the appeal with an increase in the punishment, he may direct that the punishment shall take effect from a date later than that on which it took effect under the decision of the fire authority and, if he does so, may give such directions as he thinks fit with respect to the period between those dates.

PART IV

General

18.—(1) The fire authority may direct that their functions under the preceding provisions of these Regulations shall be exercised by a committee and, if they so direct, any reference in those provisions to the fire authority shall be construed as a reference to the committee.

(2) The fire authority may from time to time revoke any such directions and issue fresh directions.

19.—(1) Any reference in these Regulations to a firemaster shall be taken to include a reference to the deputy firemaster when exercising the functions of the firemaster.

(2) The Interpretation Act, 1889(**a**), shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.

20.—(1) These Regulations shall not apply in relation to a member of a fire brigade who is an auxiliary fireman.

(2) In this Regulation the expression " auxiliary fireman " means a member of a fire brigade who is enrolled for service therein which is restricted except in a war emergency to such duties as are desirable for training.

21. These Regulations may be cited as the Fire Services (Discipline) (Scotland) Regulations, 1953, and shall come into operation on the first day of September, 1953, and shall apply only to a fire brigade maintained by a Scottish fire authority.

22. The Fire Services (Discipline) (Scotland) Regulations, 1948(**b**), and the Fire Services (Discipline) (Scotland) Regulations, 1949(**c**), are hereby revoked.

James Stuart,
One of Her Majesty's Principal Secretaries of State.

St. Andrew's House
Edinburgh, 1.
6th July, 1953.

SCHEDULE

Code of Offences against Discipline

A member of a fire brigade commits an offence against discipline if he is guilty of—

(1) Disobedience to orders, that is to say, if he disobeys, or without sufficient cause fails to carry out, any lawful order, whether in writing or not;

(2) Insubordination, that is to say, if he is insubordinate by word, act or demeanour;

(3) Abuse of authority, that is to say, if he abuses his authority by oppressive conduct;

(4) Neglect of duty, that is to say, if he—

(*a*) without sufficient 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*) without permission or sufficient cause leaves his station or place of duty; or

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

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

(**a**) 52 & 53 Vict. c. 63. (**b**) S.I. 1948/942; Rev. VII, p. 875; 1948 I, p. 1064.
(**c**) S.I. 1949/2254; 1949 I, p. 1656.

(5) Falsehood, that is to say, if he—

(*a*) knowingly makes any false or misleading statement, whether in writing or not, in the course of his functions as a member of the fire brigade; or

(*b*) without sufficient cause, destroys or mutilates any official book or document or alters or erases any entry therein;

(6) Breach of confidence, that is to say, if he divulges any matter which it is his duty to keep secret;

(7) Corrupt practice, that is to say, if he—

(*a*) improperly uses his position as a member of the fire brigade for his private advantage; or

(*b*) fails to account for, or to make a prompt and true return of, any money or property which comes into his possession in the course of his duties;

(8) Absence from duty, that is to say, if he, without reasonable excuse, is absent from duty or is late for any parade, drill or other attendance;

(9) Damage to clothing or personal equipment, that is to say, if he—

(*a*) wilfully or negligently damages any article of clothing or personal equipment with which he has been provided or entrusted or fails to take proper care thereof; or

(*b*) fails to report any damage to or loss of any article of clothing or personal equipment, however caused;

(10) Drunkenness, that is to say, if, when on duty or liable to be called upon for duty, he is unfit for duty through drink; or

(11) Discreditable or disorderly conduct, that is to say, if he—

(*a*) acts in a disorderly manner or in any manner prejudicial to discipline; or

(*b*) while on duty or while off duty in uniform in a public place, is without reasonable excuse dirty or untidy in his person, clothing or personal equipment; or

(*c*) acts in a manner likely to bring discredit on the reputation of the fire brigade.

EXPLANATORY NOTE

(This Note is not part of the Regulations, but is intended to indicate their general purport.)

These Regulations re-enact with amendments the Fire Services (Discipline) (Scotland) Regulations, 1948 and 1949, which prescribed the disciplinary code for members of local authorities' fire brigades in Scotland.

The principal changes are that provision is made in Regulation 5 (1) for the hearing of offences to be by a disciplinary tribunal and that under Regulation 8 the confirmation of the fire authority is required in the case of major punishments and the accused has a right of appeal to the fire authority against punishments other than a caution.