

Public Sector Pensions Authority

Public Sector Pensions Authority:

Formal Appeals Process:
Ill Health Retirement
and Injury Benefits



Isle of Man
Government

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Contents

Title	Page
Ill Health Retirement Appeals	3
Injury Benefit Appeals	11
Injury Benefit Reviews	15
Meaning of particular terms by Scheme	18

Introduction to Ill Health Retirement, Injury Benefits and early payment appeals

About this Guide

The PSPA have determined that individuals wishing to make an appeal in respect of a claim for benefits listed below must do so in the manner outlined in this document.

This document gives guidance on the procedures individuals should follow when appealing against the decision of the PSPA not to award an:

1. Incapacity Pension (Ill Health Pension) from the Isle of Man Government Unified Scheme 2011 (the Unified Scheme)
2. Ill Health Retirement Pension from the Teachers Superannuation Order 2011 (Teachers Scheme)
3. Injury Pension from the Public Sector Injury Benefits Scheme 2015 (Injury Scheme)

Background

Ill health retirement should be a last resort. If a member has health problems, the first instance they should seek the necessary treatment and, if appropriate, occupational health should look at ways to help them remain in or to return to work. This could be through such measures as redeployment, workplace adjustments, flexible working or specialist support.

The PSPA will expect that the Employer and Member, with the guidance of their Occupational Health Adviser to demonstrate that all parties have fully considered all such adjustments and have evidence this in the application before concluding that ill health retirement may be appropriate.

It is necessary to demonstrate that the member may not only have a medical condition that renders them incapable of doing their normal duties, but also despite appropriate treatment, that the resulting ill health and incapacity is likely to be present until the scheme normal pension age.

When a medical condition is severe enough to warrant ill health retirement, it is generally expected that the applicant will have had the benefit of a specialist opinion during their illness. It is difficult to conclude that an illness will not resolve or improve until all evidence based treatments for the specific illness have been completed. It is helpful in the consideration of an application if medical information is available from the applicant's treating specialist.

Appealing against the PSPA's decision, is an opportunity for the member, their employer and medical specialist to ensure that all relevant opinion is evidenced to support the member's application for ill health retirement benefits.

The criteria for awarding an ill health pension or an injury allowance are strict and the PSPA will explain its rationale for not making the award against each scheme criteria.

For an application to be successful, it must be supported by medical evidence and opinion that demonstrate how each of the criteria can be met. Before making any appeal, the

member must consider carefully the reasons why the PSPA rejected the application and offer counter evidence or medical opinion.

Statutory Authority of the PSPA

The PSPA is the Manager of the Schemes stated above and is responsible for determining the award of benefits from those schemes.

The Public Sector Pensions Act 2011 Section 6(1) (d) states that a function of the PSPA is to "ensure that any scheme is properly maintained and administered" and carrying out this function, the PSPA may take such independent professional advice as it considers appropriate.

Whilst the PSPA makes the final determination, it takes professional advice from its independent medical advisers, referred to in the schemes Rules and this document as the Registered Medical Practitioners.

Isle of Man Government Unified Scheme 2011

The Rules permit the PSPA to make its determination as defined in the definition of Lower and Upper Tier Ill Health:

Lower Tier and Upper Tier Ill Health Criteria: the definition in the rules of the Isle of Man Government Unified Scheme 2011, state that the PSPA having consulted the Member's Employing Authority and having regard to the advice of a Registered Medical Practitioner will determine that the applicant will meet the criteria.

The Rules permitting the award of a Lower or Upper Tier Ill Health or an alteration thereof are referred to in Rule 37.

The Rule permitting an appeal is Rule 37.16 and states: "*A Member, Employing Authority or Registered Medical Practitioner must make a claim or an appeal in respect of a claim for pension under Rule 37 in such a manner as the Public Sector Pensions Authority determines*".

Teachers Superannuation Order 2011 (the Teachers Scheme)

The Rules permit the PSPA to make its determination as defined in Regulation 65 Total Incapacity Benefits: an ill health pension becomes payable if the applicant satisfies the conditions for incapacity and other criteria. Incapacitated is defined in the Teachers Scheme Rules Glossary of Expressions. The PSPA will make the decision as Scheme Manager having consulted the Member's Employing Authority and having regard to the advice of a Registered Medical Practitioner will determine that the applicant will meet the criteria.

Public Sector Injury Benefit Scheme 2015

The PSPA will make the decision in its capacity as Scheme Manager, having regard to the advice of a Registered Medical Practitioner. The PSPA will determine that the applicant has met the Qualifying and Eligibility Conditions and review awards, as set out in Rule 5. The PSPA makes its determination as authorised under Rule 4.

Ill Health Retirements Appeal

The Ill Health Retirement Appeals process relates solely to:

- The PSPA's decision to refuse the award of an ill health retirement pension at either the Lower or Upper Tier
- The PSPA's decision to award an ill health retirement at the Lower Tier rather than Upper Tier
- The PSPA's decision not to consider whether a Pensioner Member in receipt of a Lower Tier Pension now satisfies the Upper Tier Ill-Health Criteria (applies to Unified Scheme pensioner members only - Rule 37.4 refers)
- The PSPA's refusal not to award an ill health retirement retrospectively
- The PSPA's decision not to award an Upper Tier ill health retirement pension for the early payment of a Preserved Award

Please Note: Successful appeals against refusal of ill health retirement allow the member to receive ill health retirement benefits. These are backdated if the member's service was terminated before the conclusion of the appeal.

Definitions

For the purposes of this process Ill Health Retirement Appeals Process, Ill Health Retirement Pensions and Incapacity Pension will be referred to as Ill Health Retirements.

An explanation of the meaning of particular terms for both Schemes are given in Annex A and B respectively.

Ill Health Retirement Criteria

The criteria applied when considering a case under the Ill Health Appeal process are the same as for an ill health retirement from with the Unified or Teachers Scheme.

Ill Health Retirement in Isle of Man Government Unified Scheme 2011 (the Unified Scheme)

There are two levels of Ill Health Retirement as follows:

Lower Tier Ill-Health Criteria: ill health or mental or physical incapacity that renders the member incapable of efficiently discharging the duties of his or her usual work or of comparable alternative employment as determined by the PSPA, having consulted the member's Employing Authority, in circumstances where the PSPA having regard to the advice of a Registered Medical Practitioner, determines that:

- The ill health or incapacity is likely to continue at least until the member is age 65, or in the case of a Section 7 Member (fire fighter), to age 55; and

- In the opinion of the PSPA, having sought the advice of a Registered Medical Practitioner, the member has undertaken all appropriate medical treatment to reverse the ill health condition.

Upper Tier Ill-Health Criteria: ill health or mental or physical incapacity that renders the member incapable of Gainful Employment in circumstances where the PSPA, having regard to the medical advice of a Registered Medical Practitioner, determines that:

- The ill health or incapacity is likely to continue at least until the member is age 65, or in the case of a Section 7 Member (fire fighter), to age 55; and
- In the opinion of the PSPA, having sought the advice of a Registered Medical Practitioner, the member has undertaken all appropriate medical treatment to reverse the ill health condition.

Ill Health Retirement in Teachers' Superannuation Order 2011 (the Teachers' Scheme)

There are two levels of Ill Health Retirement as follows:

Permanently unable to teach but able to do other work: ill health or mental or physical incapacity that renders the member permanently incapacitated and unable to teach but can do other work up to normal pension age.

Permanently unable to teach and unable to do any other work: ill health or mental or physical incapacity that renders the member both permanently incapacitated and unable to teach or take up gainful employment.

Ill Health Retirement Formal Appeals Process

The procedure has two separate stages. The appeal may be upheld at any of the two stages.

Stage 1

Action by member

Members must appeal in writing to the PSPA.

The member must appeal within three months of the date when the PSPA notifies them in writing that their application for an ill health retirement award has been unsuccessful. The PSPA will inform the members of the rationale behind its decision which will include the content of the Registered Medical Practitioner determination and advice.

Members wishing to appeal against the PSPA's decision not to grant ill health retirement retrospectively must do so within three months.

Where a member is unfit to make an appeal personally a relative, friend or Trade Union representative may, with the member's consent appeal on their behalf during the three month period.

Members can appeal without any significant new medical evidence to support their case. However, failure to submit such evidence at this stage of the appeal means it is most unlikely that the case can progress to Stage 2.

Please note: If exceptionally the member cannot meet the 3 month deadline because of delays beyond their control, they may ask the PSPA to consider allowing then an extension.

Grounds for Making an Appeal

The appeal must include what the member is appealing against and explain in as much detail as possible, why the member disagrees with the PSPA's decision.

In most appeal cases, the PSPA will expect the member to supply significant new medical evidence that he or she would expect to reverse the determination made by the PSPA.

The member should list all the new evidence they are supplying and explain in detail what elements of this new evidence could reverse the PSPA's decision.

The appeal can also include additional evidence and opinion from the member's employer or medical specialist.

Any documents containing personal medical evidence, such as reports that are sent by post to the PSPA should be enclosed in a sealed envelope and clearly marked for the attention only of the "Registered Medical Practitioner Only".

Action by the PSPA

The PSPA will acknowledge receipt of the appeal and forward the appeal letter, supporting documents and the original ill health application case file to the Registered Medical Practitioner **within ten working days** of receipt.

Note: All paper appeal documents and any associated medical evidence enclosures not in a sealed envelope will be confidentially destroyed shortly after the documents have been digitally scanned. The PSPA are content to consider copies of any additional medical evidence enclosures where you wish to retain the original documents.

Action by the Registered Medical Practitioner

The Registered Medical Practitioner will consider the appeal in the light of the medical evidence previously considered plus any additional evidence and reports provided by the appellant and recommend to the PSPA whether the original assessment is supported or overturned.

This will usually (but not always) be the physician who made the original determination.

The Registered Medical Practitioner will aim to do this **within twenty working days** of receipt and will advise the PSPA of either the outcome or if they are to seek further medical evidence.

The Registered Medical Practitioner can at this stage gather further medical evidence from the appellant's physician if required.

The Registered Medical Practitioner will inform the PSPA of their determination of the Stage 1 review and if any further action needs to be taken.

If the Registered Medical Practitioner upholds the appeal, the PSPA must then decide whether to accept the assessment and uphold the appeal and inform the member accordingly.

If the PSPA rejects the Registered Medical Practitioner's findings they must give a full explanation to the member of why they do so.

The explanation must include the deficiencies that the PSPA are relying on. Deficiencies may cover a range of issues, the most common reasons are:

- gaps in the supporting medical evidence provided by the member or their employer;
- the member has not undertaken or completed all the appropriate medical treatment;
- the medical adviser is unable to determine on the **balance of probabilities**, that the ill health condition is **likely** to continue and that the member will not be able to undertake any other employment until the member reaches normal pension age for their scheme or section of scheme, either age 60 or 65 depending on the pension scheme.

The PSPA will inform the member of their decision within **ten working days** of receipt of the Registered Medical Practitioner determination.

Stage 2

Where the appeal is not upheld the member may resubmit once they have remedied any deficiencies on their part; any such a resubmission must be made **within three months** from the date of the PSPA's letter notifying them of the rejection of the appeal and its rationale for doing so.

If the member cannot meet the three month deadline because of delays beyond their control, the member may ask the PSPA to consider an extension.

Please note: It is for the member to source, provide and pay for any further medical evidence being identified as being required by the PSPA or its Registered Medical Practitioner. It is not for the employer or the PSPA to meet these costs.

Action by the PSPA

Upon receipt of the resubmitted appeal and supporting documentation, the PSPA will inform the member of its initial review and any further action **within 10 working days**.

Any further evidence submitted for consideration after the initial review will necessitate a further review of as part of this stage. The further review will be completed **within twenty working days**.

As part of its initial review the PSPA will consider if the appeal satisfies the criteria and that any deficiencies in missing evidence has been submitted.

The PSPA will either:

- confirm receipt of the resubmitted appeal and state if it intends to uphold the resubmission based on the new evidence supplied by the member; or
- confirm that it is not accepting the appeal under Stage 2 on the grounds of insufficient additional or new evidence. The PSPA will give its rationale for rejecting the resubmitted appeal under Stage 2.

If a reasonable case has been made and the PSPA has accepted the appeal, it will refer the case to the Registered Medical Practitioner and request that a second opinion is given by different medical adviser from whom made the original determination.

Action by the Independent Registered Medical Practitioner

An Independent Registered Medical Practitioner (independent only to the adviser who made the first determination) will consider the case and make a determination as to whether the medical elements have been properly applied and may uphold the appeal and provide their determination for doing so.

Alternatively, if there remains uncertainty about whether the scheme criteria for medical retirement are satisfied the Independent Registered Medical Practitioner will make their determination accordingly and advise the PSPA.

The Independent Registered Medical Practitioner will aim to do this **within twenty working days** of receipt and will advise the PSPA of either the outcome or if they are to seek further medical evidence.

The Independent Registered Medical Practitioner will inform the PSPA of their determination of the Stage 2 review.

Action by the PSPA

If the appeal is upheld at this stage, the PSPA will consider the determination and will consider, whether to either accept the assessment and uphold the appeal or reject the appeal.

If the PSPA rejects the Independent Registered Medical Practitioner's findings they must give a full explanation to the member of why they do so.

In any event the PSPA will confirm the outcome to the member within **ten working days** of receiving the Stage 2 determination from the Independent Registered Medical Practitioner

Internal Dispute Resolution Procedures (IDRP)

If the appeal fails at Stage 2 and the member has any concerns about the way the process has operated in their case, they can refer their case to the PSPA's Internal Dispute Resolution Procedures (IDRP).

IDRP is a three stage process the first two stages are referred to and dealt with by the PSPA and the final stage is a referral to the Isle of Man Pensions Ombudsman.

If, after completing stages 1 and 2 of this ill health appeal process, the case is still in dispute, appellants can refer their case to the Isle of Man Pensions Ombudsman.

IDRP allows members to appeal about the procedural aspects of their medical retirement appeal, not the medical decision that resulted from it. The Ombudsman will not look at medical evidence and make a decision, but rather look at the way the decision has been reached by the PSPA and that it can be considered as reasonable.

Stages 1 and 2 of this process represent the equivalent stages of the PSPA IDRP process.

More information on the IDRP including a copy of the regulations and how to apply can be found on the PSPA's website at www.pspa.im.

Injury Benefit Appeal against level of earnings impairment awarded

Background

The formal Injury Benefit Appeal process relates solely to the medically assessed level of earnings impairment for injuries sustained by individuals who the PSPA deem qualifies to claim injury benefit from the Public Sector Injury Benefit Scheme 2015 (the Injury Scheme).

Qualification for Injury Benefits are covered in the conditions and criteria in Rule 5.

A copy of the full Injury Scheme can be found on the PSPA website at www.pspa.im

Please note: Unless previously supplied, the employer or the PSPA should give the appellant details of the Scheme's Qualifying Conditions and Eligibility criteria as set out Rules 5.1 to 5.8 inclusive. The appellant should be encouraged to share these with their medical carers as background to support their application and or appeal.

Criteria

The criteria applied when considering a case under this formal appeal process are the same as for Injury Benefit.

A person is eligible for a permanent injury benefit (PIB) when they suffer a ***qualifying injury that impairs their earning capacity.***

Impairment of earning capacity is assessed when the person is leaving employment (there may be other circumstances, such as moving to a lower grade or taking up part-time employment because of the injury and these are covered in the Scheme rules). Impairment of earnings capacity is a medical assessment of the extent to which the member's earnings capacity for the remainder of their expected working life has been impaired by the qualifying injury and must always be carried out by the Registered Medical Practitioner. It is part of the overall evidence that the PSPA must look at when making a decision about awarding injury benefits.

Impairment of earning capacity is assessed in five bands:

Not appreciably affected:	10% or less (no award is made)
Slight Impairment:	11% - 25%
Impairment:	26% - 50%
Material Impairment:	51% - 75%
Total Impairment:	OVER 75%

The assessment of impairment to earning capacity relates only to the effects of the qualifying injuries sustained.

Apportionment

In addition to an impairment of earning assessment for qualifying injuries the PSPA must ask the Registered Medical Practitioner to advise on whether the illness is “wholly” (more than 90%) or “mainly” (more than 50% but less than 90%) attributable to the nature of the duty.

If the Registered Medical Practitioner considered that the illness is less than 50% attributable to duty, it cannot be considered as “mainly” attributable to duty and the injury benefit claim will fail.

Where a person meets the mainly attributable test then the Registered Medical Practitioner will go on to apportion the extent to which their duties caused their injury.

Apportionment is assessed in three bands:

Low	50-70% attributable to duty
Medium	71-91 % attributable to duty
High	above 90%

Process

Any appeal should be made within 12 months of the initial award decision. The second appeal may be notified up to and including the day the 12 month period ends - under these circumstances, the appeal process may go beyond 12 months in its entire duration.

Action by the Member

All appeals must be made in writing. The letter of appeal should set out the basis for the appeal (e.g. against the level of apportionment/or impairment of earnings capacity).

New medical evidence must be presented with the appeal. Failure to include new medical evidence will result in the case being returned.

It is for the appellant to source, provide and pay for any further medical evidence, not the employer or the PSPA.

Action by the PSPA

The PSPA will acknowledge receipt of the appeal and forward the appeal letter, supporting documents and the original ill health application case file to the Registered Medical Practitioner **within ten working days** of receipt. The documents required are described below.

Documents required

New medical evidence supplied by the appellant must be from a registered medical practitioner. Copies of reports previously considered do not represent new evidence and are not acceptable. Extracts or part records are not acceptable. Complete reports are needed. If the appellant wishes the medical evidence should be submitted in a sealed envelope for the attention of the Registered Medical Practitioner

All relevant information relating to the previous consideration of the case whether held by the employer or by their occupational health adviser (including the complete sickness absence record and a job description)

All other paperwork previously submitted by the PSPA, employer or appellant as part of the original application (including Registered Medical Practitioner correspondence).

Note: All paper appeal documents and any associated medical evidence enclosures not in a sealed envelope will be confidentially destroyed shortly after the documents have been digitally scanned. The PSPA are content to consider copies of any additional medical evidence enclosures where you wish to retain the original documents.

Failure to include any of this Material will result in the case being returned.

Action by the Registered Medical Practitioner

Whether considering a first or second appeal, there are three different options open to the Registered Medical Practitioner:

Uphold the appeal returning the case to the PSPA for a final decision.

Reject the appeal and it goes no further, remitting the case back to the PSPA for a final decision.

Referring a border-line case to a physician independent of the medical adviser for a further paper- based assessment. The independent physician may uphold or reject the case at this final stage, remitting it back to the PSPA for a final decision.

Stage 1 - A first appeal

A senior physician will consider the appeal in the light of the new medical evidence provided by the appellant. The senior physician who considers the first appeal will be different from the one who made the original decision.

The appeal is normally considered on the basis of the information submitted. However, an on Island consultation may be required if the physician considers it necessary.

The first appeal may uphold the original decision or result in an increase to the level of award.

Stage 2 - A second appeal

Any second appeal is considered by a Registered Medical Practitioner physician different from the one who gave the original advice and /or who considered the first appeal – in most cases the physician considering the second appeal will be a senior physician.

Any second appeal may do as the first appeal but can; in addition, lower the level of apportionment and/or earnings impairment if the new medical evidence justifies it.

Action by the PSPA

If the appeal is upheld at this stage, the PSPA will consider the determination and will decide either accept the assessment and uphold the appeal or reject the appeal.

If the PSPA rejects the Independent Registered Medical Practitioner' findings they must give a full explanation to the member of why they do so.

In any event the PSPA will confirm the outcome to the member within **ten working days** of receiving the second stage determination from the Independent Registered Medical Practitioner

This completes the formal Injury Benefit Appeal arrangements.

Internal Dispute Resolution Procedures (IDRP)

If the appeal fails at Stage 2 and the member has any concerns about the way the process has operated in their case, they can refer their case to the PSPA's Internal Dispute Resolution Procedures (IDRP).

IDRP is a three stage process the first two stages are referred to and dealt with by the PSPA and the final stage is a referral to the Isle of Man Pensions Ombudsman.

More information on the IDRP including a copy of the regulations and how to apply can be found on the PSPA's website at www.pspa.im.

Stages 1 and 2 of this process represent the equivalent stages of the PSPA IDRP process. Therefore, if, after completing stages 1 and 2 of this appeal process, disputes can be escalated to the Isle of Man Pensions Ombudsman.

IDRP allows members to appeal about the procedural aspects of their appeal, not the medical decision that resulted from it. The Ombudsman will not look at medical evidence and make a decision, but rather look at the way the decision has been reached by the PSPA and that it can be considered as reasonable.

Injury Benefit Reviews

Background

There is no formal appeal procedure against the PSPA not deeming an injury as a qualifying injury. A member can request a review (informal appeal) against the PSPA not deeming an injury as a qualifying injury.

Please note: Unless previously supplied, the employer should give the appellant details of the scheme's qualifying criteria. An injury benefits guide and a copy of the Scheme rules, along with a copy of this guide is available on the PSPA website. It will also be helpful to provide a copy of this guide. The member should be encouraged to give a copy of whatever is provided to their medical carers as background.

Criteria

The criteria applied when considering a case in which a review has been requested (informal appeal) are the same as for Injury Benefits.

The applicant must have suffered an injury or contracted a disease that is:

- a. Sustained in the course of their employment and which is wholly or mainly attributable to that employment; or
- b. Wholly or mainly attributable to the duties of that employment and;
- c. the applicant must have suffered termination or change of employment due to:
 - a permanent loss of earning ability in excess of 10% or
 - death, leaving a spouse, civil partner and or/dependants

The first decision on whether or not a qualifying injury has occurred rests with the PSPA. The role of the Registered Medical Practitioner is to provide advice on the medical aspects of the case.

Process

The review request (informal appeal) should be made at the earliest possible opportunity following the initial award decision. There is no strict time limit of a request for a review.

The review may uphold the original decision or support the grounds of the review request.

Actions

Actions by member

All requests for review must be made in writing. The review request should set out the basis for reconsideration e.g. in relation to the PSPA decision not deeming an injury as a qualifying injury and or the level of earnings impairment. The review request should be made through the PSPA. A request for a review should be on the basis of new evidence. This evidence may relate to employment matters or alternatively medical aspects of the case. Fresh medical evidence would certainly be required where the PSPA decision not to

grant an award has been predominantly on the basis of medical advice provided by the medical adviser.

Please note: It is for the appellant to source, provide and pay for any further medical evidence, not the employer or the PSPA.

Action by the PSPA

Where fresh evidence relates to employment matters the PSPA may undertake the review without resorting to further medical evidence.

When the review request focuses on fresh medical evidence and or employment matters and further medical evidence is required, the PSPA should refer the case to the Registered Medical Practitioner.

The following flagged documents must be submitted with each case:

Documents required
New medical evidence supplied by the appellant must be from a registered medical practitioner. Copies of reports previously considered do not represent new evidence and are not acceptable. Extracts or part records are not acceptable. Complete reports are needed. If the appellant wishes the medical evidence should be submitted in a sealed envelope for the attention of the Registered Medical Practitioner
All relevant information relating to the previous consideration of the case whether held by the employer or by their occupational health adviser (including the complete sickness absence record and a job description)
All other paperwork previously submitted by the PSPA, employer or appellant as part of the original application (including Registered Medical Practitioner correspondence).

Note: All paper appeal documents and any associated medical evidence enclosures not in a sealed envelope will be confidentially destroyed shortly after the documents have been digitally scanned. The PSPA are content to consider copies of any additional medical evidence enclosures where you wish to retain the original documents.

Failure to include any of this Material will result in the case being returned.

Action by the Registered Medical Practitioner

There are three different options open to the Registered Medical Practitioner when considering a review application:

To uphold the grounds for a review of the request remitting the case back to the PSPA for a final decision.

Reject the review request and it goes no further, remitting the case back to the PSPA for a final decision.

Referring a border-line case to a physician independent of the medical adviser for a further paper- based assessment. The independent physician may uphold or reject the case at this final stage, remitting it back to the PSPA for a final decision.

This completes the Injury Benefit Review arrangements.

Internal Dispute Resolution Procedures (IDRP)

If the appeal fails at Stage 2 and the member has any concerns about the way the process has operated in their case, they can refer their case to the PSPA's Internal Dispute Resolution Procedures (IDRP).

IDRP is a three stage process the first two stages are referred to and dealt with by the PSPA and the final stage is a referral to the Isle of Man Pensions Ombudsman.

Stages 1 and 2 of this process represent the equivalent stages of the PSPA IDRP process.

IDRP allows members to appeal about the procedural aspects of their appeal, not the medical decision that resulted from it. The Ombudsman will not look at medical evidence and make a decision, but rather look at the way the decision has been reached by the PSPA and that it can be considered as reasonable.

More information on the IDRP including a copy of the regulations and how to apply can be found on the PSPA's website at www.pspa.im.

Annex A

Meaning of terms relating to Isle of Man Government Unified Scheme 2011

Appropriate medical treatment: medical treatment advised by a medical practitioner (either your own general practitioner or a registered specialist medical practitioner to whom you may have been referred) that is appropriate to receive for the condition(s) in your application for ill-health retirement benefits.

Comparable Job: the following key factors will be used to assess whether an alternative job or occupation is considered to be comparable with a member's current job or occupation:

- The level of salary, wages or earnings: an alternative job with a considerably lower salary, wage or earnings may not be considered a comparable job.
- Grade and experience in the current job when compared with other public and private sector occupations.
- Comparable skills, qualifications and experience: the skills required to undertake the current job and whether they are transferrable. An appropriate guideline might be that at least 80% of the skills required undertaking the current job must be transferrable.
- Location: would the nature of the illness enable an individual to move to a comparable job in a different location?

The above factors are taken into account irrespective of whether or not such employment is actually available.

Efficiently discharging the duties: producing the result required of an employment role efficiently.

Gainful Employment: means employment, whether with an Employing Authority or not, in respect of which a member's annual earnings equal or exceed the higher of:

- 20% of the rate of annual earnings applicable to the Member on the day before the first day of sickness absence, increased in respect of each 12 month period after that date, in line with the inflationary index used for the pensions Increase (Annual Review) Order, made by Treasury and approved by Tynwald; and
- The annual rate of the Lower Earnings Limit (LEL) determined annually by the Department of Social Care.

Incapacitated: unfit by reason of illness or injury and despite appropriate medical treatment to serve as a teacher, organiser or supervisor.

Likely: means 'on a balance of probabilities'. The permanence of the ill health does not have to be 'beyond reasonable doubt' but rather more likely than not.

Lower Tier Ill-Health Criteria: ill health or mental or physical incapacity that renders the member incapable of efficiently discharging the duties of his or her usual work or of comparable alternative employment as determined by the PSPA, having consulted the member's Employing Authority, in circumstances where the PSPA having regard to the advice of a Registered Medical Practitioner, determines that:

- The ill health or incapacity is likely to continue at least until the member is age 65, or in the case of a Section 7 Member (fire fighter), to age 55; and
- In the opinion of the PSPA, having sought the advice of a Registered Medical Practitioner, the member has undertaken all appropriate medical treatment to reverse the ill health condition.

Upper Tier Ill-Health Criteria: ill health or mental or physical incapacity that renders the member incapable of Gainful Employment in circumstances where the PSPA, having regard to the medical advice of a Registered Medical Practitioner, determines that:

- The ill health or incapacity is likely to continue at least until the member is age 65, or in the case of a Section 7 Member (fire fighter), to age 55; and
- In the opinion of the PSPA, having sought the advice of a Registered Medical Practitioner, the member has undertaken all appropriate medical treatment to reverse the ill health condition.

Member: an Active and contributing member of the Unified Scheme who is below age 65 (or age 55 if a Section 7 fire fighter member).

Annual Earnings: This is the amount of annual earnings.

Rule 37.4 Isle of Man Government Unified Scheme

37.4. A Pensioner Member in receipt of a pension under this Rule 37 who satisfied the Lower Tier Ill-Health Criteria may make a written application to the Public Sector Pensions Authority requesting that it considers whether the Pensioner Member has subsequently satisfied the Upper Tier Ill-Health Criteria. A Pensioner Member may only make the application if:

(a) at the time his or her ill-health pension was awarded under Rule 37.1(c)(i) the Public Sector Pensions Authority, after receiving the advice of a Registered Medical Practitioner, certified that the ill-health or incapacity in respect of which his or her ill-health pension was awarded is such that future reassessment could be appropriate and that an application under this Rule 37.4(a) should be permitted; and

(b) the Pensioner Member makes the application to the Public Sector Pensions Authority within 3 years from the date on which the Pensioner Member first received a pension under Rule 37.1; and

(c) the application is accompanied by further written medical evidence:

- (i) that relates to whether the Pensioner Member satisfies the Upper Tier Ill-Health Criteria at the date the Public Sector Pensions Authority considers the application; and
- (ii) that is in respect of the same physical or mental impairment as a result of which the Pensioner Member previously satisfied the Lower Tier Ill-Health Criteria; and

(d) he or she has not previously made an application under this Rule 37.4.

Annex B

Meaning of terms relating to the Teachers' Superannuation Order 2011

Retire from pensionable employment: your employment ends on the grounds of ill-health

Ill health: means a breakdown in health due to a recognised medical condition which gives rise to the incapacity. Diagnosis must be supported by appropriate clinical findings.

Likely: means 'on a balance of probabilities'. The permanence of the ill health does not have to be 'beyond reasonable doubt' but rather more likely than not.

Permanent: means until pension age. Not only does the ill health have to be permanent but it also has to result in permanent incapacity. Many permanent medical conditions (e.g. asthma, diabetes, epilepsy, etc) do not normally prevent individuals from working normally.

Incapacity: means unable to work due to the breakdown in health.

Incapable of undertaking other gainful employment: the individual's functional ability to carry out any reasonable paid employment should have been impaired by more than 90%. That is, they may be capable of undertaking some types of job, but this is severely restricted by their loss of function caused by the illness.

Incapable of doing his own or a comparable job: incapable of doing their own job or a comparable one within their pension scheme employment. They will however be capable of a range of other types of work.

Pension age: means the earliest age at which a member can take their pension without it being reduced because of early payment