RULE A11
Death or infirmity resulting from injury

Rule A11 interprets how death or infirmity can be described as having resulted from an injury.

This Rule was removed from the FPS with effect from 1 April 2006 when the Firefighters' Compensation Scheme was introduced.

The explanation of Rule A11 as it applied up to 31 March 2006 appears on the following pages as "archived" material.

RULE A11 ARCHIVED
Death or infirmity resulting from injury

Rule A11 interprets how death or infirmity can be described as having resulted from an injury.

Effect of an injury – death

Rule A11(1) and (2) offer guidance on establishing, for benefit purposes, if a person has died as a result of an injury. This will be the case if it appears that

- had the person not suffered the injury, they would not have died when they did, and
- the injury caused or substantially contributed to the death.

Effect of an injury – infirmity of mind or body

For establishing if "infirmity of mind or body" has been occasioned by an injury, Rule A11(2) says that this will be the case if the injury caused or substantially contributed to the infirmity.

Useful reference source

- FSC 32/1979: introduces "after-appearing" injuries
- FSC 2/1992: explains change in wording between 1973 Order and 1992 Order
- Fiske v. Norfolk CC [1998]: pre-existing medical condition aggravated by qualifying injury
- FSC 5/2000: effect of Fiske v. Norfolk CC on interpretation
- Phillips v. Strathclyde Joint Police Board [2001]: the fact that a medical condition manifests itself while a person is a serving policeman does not necessarily establish a causal link
- Jennings v Chief Constable of Humberside Police [2001]: "accelerates" means something different to "aggravates"

Points To Note

1. The purpose of this rule is to establish your entitlement, or that of your dependants, to an award which depends on you becoming disabled as a result of a qualifying injury. It has no bearing on your degree of disablement (see explanation of Rule A10).

2. Fiske v. Norfolk County Council [1998] considered a claimant who had a pre-existing medical condition which had been aggravated by a qualifying injury. It was established that although the claimant had a pre-existing medical condition, he was nevertheless able to carry out his duties as a firefighter, but because the aggravation caused by a qualifying injury substantially contributed to the claimant's disablement, the qualifying injury should be regarded as the cause of disablement. In other words the test of "substantially contributed" would be met if, without the qualifying injury, the firefighter would not have become disabled for the performance of duty. (A similar test would have been applicable if the firefighter had died.)

3. Initially, in the Firemen's Pension Scheme Order 1973, the wording was quite restrictive in that the infirmity of mind or body would be considered to have been occasioned by an injury if that injury caused the firefighter to retire earlier than he otherwise would have done. The wording was amended in 1978, retrospective to 1972 so that an injury which does not become apparent until **after** retirement may also count. This is the so-called "after-appearing" injury.

Rule A11 (continued)

Points To Note continued

4. In Phillips v. Strathclyde Joint Police Board, the opinion of Lord Hamilton included the statement that “The mere circumstances that such a condition manifests itself while the person is a serving policeman will not, however, of itself establish the causal link; and it may be that, at least in some circumstances, if there is nothing unusual in the constable’s experience in service, it is more difficult to draw the inference that his condition is the result of that experience. The test of causation is not to be applied in a legalistic way but falls to be applied by medical rather than legal experts”.