

SCHEDULE 2

Regulation 63

Amendments of the Appeal Regulations

Interpretation

1. In this Schedule, “the Appeal Regulations” means the Ministry of Defence Appeals Tribunals Regulations 2009(1).

Amendments in relation to interpretation

2.—(1) Regulation 3 of the Appeal Regulations is amended as follows.

(2) At appropriate places, insert—

““the 1998 Act” means the Police (Northern Ireland) Act 1998(2);”;

““the 2013 Order” means the Independent Police Complaints Commission (Forces Maintained Otherwise than by Local Policing Bodies) Order 2013(3);”;

““police officer” means a member of the Ministry of Defence Police;”.

(3) For the definition of “Conduct Regulations” substitute—

““Conduct Regulations” means the Ministry of Defence Police (Conduct) Regulations 2015(4);”.

(4) For the definition of “specified appeal” substitute—

““specified appeal” means an appeal where the relevant decision was made in any case which was investigated—

(a) under procedures established with the Commission in accordance with article 3 of the 2013 Order;

(b) under procedures established with the Ombudsman in accordance with an agreement made under section 60(1) of the 1998 Act;”.

Amendment to circumstances in which an appeal may be made to a tribunal

3. For regulation 4(4)(c) of the Appeal Regulations substitute—

“(c) that there was a breach of the Conduct Regulations, or other unfairness which could have materially affected the finding or disciplinary action imposed.”.

Amendment in relation to appeals against a finding etc under the Performance Regulations

4. In regulation 4A(5) of the Appeal Regulations after “unsatisfactory performance” insert “or attendance”.

Amendments in relation to appointment and composition of police appeals tribunal

5.—(1) For regulation 5(2)(a) and (b) of the Appeal Regulations substitute—

“(a) one (who shall be the chair) must be chosen from a list of persons who satisfy the judicial-appointment eligibility criterion on a 5-year basis and have been nominated by the Secretary of State for the Home Department for the purposes of these Regulations;

(1) S.I. 2009/3070.

(2) 1998 c. 32.

(3) S.I. 2013/1779.

(4) S.I. 2015/25.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (b) one must be Her Majesty’s Chief Inspector of Constabulary appointed under section 54(1) of the Police Act 1996⁽⁵⁾ (appointment and functions of inspectors of constabulary) or an inspector of constabulary nominated by the Chief Inspector of Constabulary; and
 - (c) one must be a person chosen from a list of candidates maintained by the MOD Police Committee.”.
- (2) Omit regulation 5(3) of the Appeal Regulations.
- (3) For regulation 5(4) of the Appeal Regulations substitute—
- “(4) If the appellant was a police officer (other than a senior officer) serving in England and Wales or Northern Ireland immediately before the original hearing, the tribunal is to consist of three members appointed by the Head of HR, of whom—
- (a) one must be a person chosen from the list referred to in paragraph (2)(a);
 - (b) one must be a senior officer who is—
 - (i) from an alternative police force other than the Police Service of Scotland, and
 - (ii) not based in Scotland; and
 - (c) one must be either—
 - (i) a retired member of the force, or
 - (ii) a retired member of an alternative police force other than the Police Service of Scotland,who, at the time of retirement, was a member of an appropriate staff association and not based in Scotland.
- (4A) If the appellant was a police officer (other than a senior officer) serving in Scotland immediately before the original hearing, the tribunal is to consist of three members appointed by the Head of HR, of whom—
- (a) one must be a person chosen from a list of persons who have been nominated by the Lord President of the Court of Session for the purposes of Schedule 3 to the 2012 Act;
 - (b) one must be a senior officer from the Police Service of Scotland; and
 - (c) one must be a retired member of—
 - (i) the force,
 - (ii) the Police Service of Scotland, or
 - (iii) a police force maintained under section 1 of the 1967 Act,who at the time of retirement was a member of an appropriate staff association.”.

(4) In regulation 5(6) of the Appeal Regulations —

 - (a) in sub-paragraph (b) after “1996 Act” insert “, the metropolitan police force or the City of London police force”;
 - (b) in sub-paragraph (c) omit “a member of a police force maintained under section 2 of the 1996 Act”;
 - (c) after sub-paragraph (d) add—
 - “(e) the Police Federation for Scotland where the panel member was at the time of retirement a member of the Police Service of Scotland or a police force maintained under section 1 of the 1967 Act.”.

(5) 1996 c. 16.

- (5) Omit regulation 5(7).

Amendment in relation to procedure on notice of appeal

6. For regulation 9(2)(a) of the Appeal Regulations substitute—
“(a) a copy of the notification of outcome provided under regulation 40(1) or 60(1) of the Conduct Regulations or regulation 37(3) of the Performance Regulations;”.

Amendment in relation to notice of the hearing

7. In regulation 14(2)(a) of the Appeal Regulations after “regulation 4(4)(b)” insert “or 4A(6)(b)”.

Amendment in relation to legal and other representation

8. For regulation 15(5) of the Appeal Regulations substitute—
“(5) Where a police friend is a police officer or a staff member, that person may use a reasonable amount of duty time for the purposes referred to in this regulation.”.

Amendment in relation to attendance of complainant at hearing

9. For regulation 19(1) of the Appeal Regulations substitute—
“(1) This regulation applies in relation to any hearing where the relevant decision arose from a complaint to the Commission or Ombudsman.”.

Amendments in relation to tribunal’s determination

- 10.—(1) After regulation 22(1) of the Appeal Regulations insert—
“(1A) Where the tribunal determines that a ground of appeal under regulation 4(4)(b) or (c) or regulation 4A(6)(b) or (c) has been made out, the tribunal may set aside the relevant decision and remit the matter to be decided again in accordance with the relevant provisions of the Conduct Regulations or the Performance Regulations.
(1B) Where the tribunal remits the matter under paragraph (1A)—
(a) any misconduct meeting for the matter must be conducted by a person other than the person who made the relevant decision;
(b) any misconduct hearing for the matter must be conducted by a panel which does not include any person who was on the panel that made the relevant decision.”.
- (2) For regulation 22(2) of the Appeal Regulations substitute—
“(2) The determination of the tribunal may be based on a majority (with the chair having the casting vote if necessary).”.
- (3) Omit regulation 22(3) of the Appeal Regulations.
- (4) For regulation 22(6) of the Appeal Regulations substitute—
“(6) Where regulation 19(1) applies, the Head of HR must notify the complainant and any interested party of the decision of the tribunal.”.