
SCOTTISH STATUTORY INSTRUMENTS

2007 No. 201

The Police Pensions (Scotland) Regulations 2007

PART 7

MEDICAL QUESTIONS AND APPEALS

Appeals

Appeal by a member of a home police force

66. Where a member of a home police force, or a person claiming an award in respect of such a member, is aggrieved by—

- (a) the refusal of the police authority to admit a claim to receive as of right an award or a larger award than that granted;
- (b) a decision of the police authority as to whether a refusal to accept medical treatment is reasonable for the purposes of regulation 4;
- (c) the reduction under regulation 53 by the police authority of the amount of any pension payable to such a member; or
- (d) the forfeiture under regulation 55 by the police authority of any award granted to or in respect of such a member,

that person may, subject to regulation 68, appeal to the sheriff, and the sheriff, after enquiring into the case, may make such order in the matter as appears to the sheriff to be just.

Appeal by inspector of constabulary or police officer engaged on relevant service

67.—(1) This regulation shall apply in relation to—

- (a) an inspector of constabulary; or
- (b) a police officer engaged on relevant service,

and any such person is hereafter in this regulation referred to as an officer to whom this regulation applies.

(2) Where an officer to whom this regulation applies, or a person claiming an award in respect of such an officer, is aggrieved by—

- (a) the refusal of the Scottish Ministers as police authority to admit a claim to receive as of right an award or a larger award than that granted;
- (b) a decision of the Scottish Ministers as police authority as to whether a refusal to accept medical treatment is reasonable for the purposes of regulation 4;
- (c) the reduction under regulation 53 by the Scottish Ministers as police authority of the amount of any pension payable to such an officer; or
- (d) the forfeiture under regulation 55 by the Scottish Ministers as police authority of any award granted to or in respect of such an officer,

the officer may, subject to regulation 68, give notice of appeal to the Scottish Ministers; and any such notice shall be in writing and shall specify the grounds of the appeal.

(3) The Scottish Ministers, on receiving such notice of appeal, shall appoint an appeal tribunal (in this regulation referred to as “the tribunal”), consisting of 3 persons, including a person who has at least 7 years standing as an advocate or solicitor admitted in Scotland, or a 7 year general qualification within the meaning of section 71 of the Courts and Legal Services Act 1990⁽¹⁾ or at least 7 years standing as a member of the Bar of Northern Ireland or solicitor of the Supreme Court of Northern Ireland and a former member of a police force who, before ceasing to serve as such or retiring, held a rank not lower than that of Superintendent.

(4) The time and place for the hearing, or any postponed or adjourned hearing, of the appeal shall be determined by the tribunal, which shall give reasonable notice thereof to the appellant and to the Scottish Ministers as police authority (“the parties”).

(5) Either party may be represented before the tribunal by counsel, by a solicitor or by such other person as appears to that party appropriate, adduce evidence and cross-examine witnesses.

(6) In the case of an appeal under this regulation the tribunal shall have regard to the practice of the Sheriff Court in the case of an appeal under regulation 66 or under regulation H5 of the 1987 Regulations⁽²⁾, and the rules of evidence applicable in the case of such an appeal shall apply in the case of an appeal under this regulation.

(7) Subject to the preceding provisions of this regulation, the tribunal shall determine its own procedure.

(8) The tribunal, after enquiring into the case and arriving at a decision thereon, may make such order in the matter as appears to it just, which order shall state the reasons for the decision; and each of the parties shall be entitled to a copy of any such order.

(9) An appeal shall lie on a point of law from any decision of a tribunal under this regulation to the Court of Session in accordance with rules of court.

Limitations on appeals

68.—(1) An appeal shall not lie under regulation 66 or 67 against anything done by a police authority in the exercise of a power conferred by these Regulations which is expressly declared by these Regulations to be a power which they are to exercise in their discretion.

(2) Subject to regulation 73⁽²⁾, in any proceedings under regulation 66 or 67 the court or tribunal shall be bound by any final decision of a medical authority within the meaning of regulation 73.

(1) 1990 c. 41; relevantly amended by the Access to Justice Act 1999 (c. 22), sections 43 and 106 and Schedule 6, paragraphs 4 and 9.

(2) S.I. 1987/257. Regulation H5 was amended by S.S.I. 2003/406, Schedule 1, paragraph 12.