

POLICY NOTE

THE POLICE APPEALS TRIBUNALS (SCOTLAND) RULES 2013

SSI 2013/63

1. The above instrument was made in exercise of the powers conferred by sections 56(3), 125(1) and paragraph 4 of schedule 3 of the Police and Fire Reform (Scotland) Act 2012 (“the 2012 Act”). The instrument is subject to the negative procedure.

Policy Objectives

2. Section 53 and Schedule 3 of the 2012 Act make provision for appeals by constables to the Police Appeals Tribunal (‘the PAT’). The main policy objective is to update the procedures set out in the Police Appeals Tribunals (Scotland) Rules 1996 to reflect the provisions of the 2012 Act and the role of the Scottish Police Authority (‘the SPA’).

3. An appeal to the PAT may only be made where the constable has, as a result of disciplinary action, been demoted or dismissed except in the case of constables of the rank of Assistant Chief Constable or above who may only appeal against dismissal. The PAT may either confirm or replace the decision being appealed.

4. Under the provisions of the 2012 Act the PAT members will be drawn from a list established and maintained by the Lord President of the Court of Session and appointed by the Lord President. The SPA will administer and fund the tribunals.

5. The Rules set out procedures for administering the appeal process which is to be the responsibility of a Registrar appointed by the SPA. Rule 4 provides that the respondent in relation to senior officers is the SPA and for other ranks is the chief constable of the Police Service. The parties involved may be represented throughout the appeal process. The representatives may be legally qualified.

6. The Registrar will, under the Rules, ensure the PAT is convened, all the relevant notices are sent and documents and other information are provided to all the parties involved in the appeal procedure.

7. Section 57(2) of the 2012 Act allows the appellant or the respondent to make representations to the PAT and either party may require that these representations are made by way of an oral hearing. Rule 8 sets out the procedures for establishing whether an oral hearing is required.

8. The Rules provide that hearings will be held in public, unless the tribunal and the parties agree that the hearing should be in private, and that witnesses may be required to attend the hearing, or give evidence, or to produce documents or information.

9. Rule 15 allows the tribunal to determine its own procedure subject to the provisions in the Rules. When it has reached a decision the tribunal must record its

decision including a statement of the reasons for that decision. That document must be sent to each of the parties.

Transitionals and Savings

10. The Schedule makes provisions to allow appeals which are pending on 1 April 2013 to continue to be dealt with under the 1996 Rules or under these Rules, depending on when the notice of appeal was sent to the Registrar. Responsibility for the administration of these appeals will transfer to the SPA on 1 April 2013.

11. To allow appeals made before 1 April 2013 it has also been necessary to save the relevant sections of the Police (Scotland) Act 1967. This has been done in The Police and Fire Reform (Scotland) Act 2012 (Supplementary, Transitional, Transitory and Savings Provisions) Order 2013 which was laid before the Scottish Parliament on 18 February 2013.

Consultation

12. A public consultation on the draft Rules took place from 25 January 2013 to 8 February 2013 and key stakeholders have been involved in a 'reference group' to discuss the provisions needed in the Rules. A full list of those consulted is set out below.

ACPOS (Association of Chief Police Officers in Scotland)
ASPS (The Association of Scottish Police Superintendents)
Central Scotland Police
Chief Constable of the Police Service of Scotland
Christian Police Association
Dumfries and Galloway Constabulary
Fife Police
Gay Police Association
Grampian Police
HMICS (Her Majesty's Inspectorate of Constabulary for Scotland)
Lord President of the Court of Session
Lothian and Borders Police
Muslim Police Association
Northern Constabulary
Police Boards
Scottish Committee (Administrative Justice & Tribunals Councils Scottish Committee)
Scottish Police Authorities Convenors Forum
Scottish Police Authority
Scottish Police Federation
Scottish Police Muslim Association
Scottish Women's Development Forum
Scottish Advisory Committee on Arbitration Law
SCPOSA (Scottish Chief Police Officers Staff Association)
SEMPER Scotland (Supporting Ethnic Minority Police staff for Equality in Race Scotland)

SPSA (The Scottish Police Services Authority)
Strathclyde Police
Tayside Police

Impact Assessment

13. A Business Regulatory Impact Assessment (BRIA) was carried out for the Police and Fire Reform (Scotland) Bill, which became the Act. No BRIA is therefore required for these regulations. An Equality Impact Assessment was carried out for the suite of workforce regulations.

Scottish Government
Safer Communities Directorate
22 February 2013