Police and Criminal Evidence Act 1984

1984 CHAPTER 60

PART IX

POLICE COMPLAINTS AND DISCIPLINE

Amendments of discipline provisions

103 Disciplinary appeals.

(1) The following section shall be substituted for section 37 of the Police Act 1964—

"**37 Disciplinary appeals to Secretary of State.**

(1) A member of a police force who is dealt with for an offence against discipline may appeal to the Secretary of State—

(a) against the decision on the disciplinary charge which was preferred against him;

(b) against any punishment awarded,

except where he has a right of appeal to some other person; an in that case he may appeal to the Secretary of State from any decision of that other person.

(2) On an appeal the Secretary of State may make an order allowing or dismissing the appeal.

(3) Subject to subsection (4) below, in any case where it appears to him that is is appropriate to do so, he may substitute some other punishment.

(4) The Secretary of State may not substitute another punishment unless it appears to him—

(a) that the person or tribunal who heard the disciplinary charge could have awarded it; and

(b) that it is less severe than the punishment awarded by that person or tribunal.

Status: *Point in time view as at 03/02/1995. This version of this provision has been superseded.*
Changes to legislation: *Police and Criminal Evidence Act 1984, Section 103 is up to date with all changes known to be in force on or before 06 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(5) The Secretary of State may direct an appellant to pay the whole or any part of his own costs; but, subject to any such direction, all the costs and expenses of an appeal under this section, including the costs of the parties, shall be defrayed out of the police fund.

(6) Schedule 5 to this Act shall have effect in relation to any appeal under this section.".

(2) The following Schedule shall be substituted for Schedule 5 to that Act—

"SCHEDULE 5 Section 37.

DISCIPLINARY APPEALS

Notice of appeal

1 Any appeal under section 37 of this Act (in this Schedule referred to as "the principal section") shall be instituted by giving a notice of appeal within the time prescribed under this Schedule.

Respondent

2 (1) On any appeal under the principal section against the decision of a police authority the respondent shall be that authority.

(2) On any other appeal under that section the respondent shall be the chief officer of police of the police force to which the appellant belongs or such other person as the Secretary of State may direct; and the Secretary of State may direct any respondent under this sub-paragraph to act in relation to the appeal in consultation with such other person or persons as the Secretary of State may specify.

Inquiries

3 (1) The Secretary of State may appoint three persons to hold an inquiry into and report to him on any appeal under the principal section other than an appeal from a decision of a police authority and, subject to sub-paragraph (2) below, shall do so where—

(a) it appears to him that the appeal cannot be properly determined without taking evidence; or

(b) the appellant has been punished by way of dismissal, requirement to resign or reduction in rank and has requested that such persons be appointed.

(2) The Secretary of State need not make an appointment under sub-paragraph (1) above if he is satisfied that there are sufficient grounds for allowing the appeal without an inquiry.

(3) The persons appointed under sub-paragraph (1) above shall be—

(a) a barrister or solicitor, who shall be chairman;

(b) a serving or retired inspector of constabulary or a retired chief officer; and

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(c) a retired officer of appropriate rank within the meaning of sub-paragraph (4) below.

(4) A retired officer of appropriate rank means—

(a) where the appellant was, immediately before the disciplinary proceedings, of the rank of chief superintendent or superintendent, a retired police officer who at the time of his retirement was of either of those ranks; and

(b) in any other case, a retired police officer who at the time of his retirement was of the rank of chief inspector or below.

(5) The Secretary of State may appoint one or more persons to hold an inquiry into and report to him on an appeal under the principal section from a decision of a police authority.

(6) The Secretary of State may require persons appointed under this paragraph to deal in their report with any particular matter specified by him.

(7) Subsections (2) and (3) of section 250 of the Local Government Act 1972 shall apply to any inquiry under this paragraph as they apply to an inquiry under that section.

(8) The Secretary of State may require persons appointed under this paragraph to hold a hearing.

(9) Persons so appointed shall hold a hearing in any case where they are not required to do so under sub-paragraph (8) above, unless it appears to them that it is unnecessary to do so.

(10) A decision whether to hold a hearing shall not be taken under sub-paragraph (9) above unless both the appellant and the respondent have been afforded an opportunity to make written or, if either so requests, oral representations and any such representations have been considered.

(11) Where a hearing is held in the course of an inquiry, the appellant shall have the right to appear by a serving member of a police force or by counsel or a solicitor; and the respondent shall have the right to appear by an officer of the police force or by the clerk or other officer of the police authority or by counsel or a solicitor.

(12) Before making an order under the principal section the Secretary of State shall consider any report made to him under this paragraph, as well as the notice of appeal and any other documents submitted to him by the appellant and the respondent in accordance with rules under this Schedule.

(13) The Secretary of State may, before making an order under the principal section, remit the case for further investigation by the person or persons who held the inquiry or, if he thinks fit, for further consideration by the person or persons whose decision is the subject of the appeal.

Notice and effect of orders

4 (1) A copy of any order made by the Secretary of State, together with a written statement of his reasons for making it, shall as soon as made be sent to the appellant and the respondent together with, if an inquiry was held, a copy of

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the report of the person or persons who held the inquiry; and the order shall be final and binding upon all parties.

(2) Where an appeal is allowed or the punishment is varied by the Secretary of State, the order shall take effect by way of substitution for the decision appealed from, and as from the date of that decision; and where the effect of the order is to reinstate the appellant in the force or in his rank, he shall, for the purpose of reckoning service for pension, and, to such extent (if any) as may be determined by the order, for the purpose of pay, be deemed to have served in the force or in that rank, as the case may be, continuously from the date of the decision to the date of his reinstatement and, if he were suspended for a period immediately preceding the date of the decision, the order shall deal with the suspension.

(3) Any costs payable under the principal section shall be subject to taxation in such a manner as the Secretary of State may direct.

Rules

5 (1) The Secretary of State may make rules as to the procedure on appeals and at inquiries under this Schedule and in particular, but without any prejudice to the generality of this provision, may make rules—

(a) prescribing the form and content of the notice of appeal and the documents to be submitted by the appellant and the time within which such documents are to be submitted; and

(b) prescribing the documents to be submitted and the time within which they are to be submitted by the respondent; and

(c) providing for the person or persons holding an inquiry to receive evidence or representations in writing instead of holding a hearing.

(2) Any rules made under this paragraph shall be laid before Parliament after being made.”.

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