

EXPLANATORY MEMORANDUM TO
THE POLICE APPEALS TRIBUNALS (AMENDMENT: METROPOLITAN
POLICE) RULES 2011

2011 No. 3029

1. This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.
2. **Purpose of the instrument**
 - 2.1 This instrument amends existing rules concerning appeals against decisions in police performance and misconduct proceedings, in consequence of changes made to policing governance in the Metropolitan Police District by the Police Reform and Social Responsibility Act 2011 (“the 2011 Act”). Further rules will be made in 2012 to reflect the changes in relation to the rest of England and Wales.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
 - 3.1 None.
4. **Legislative Context**
 - 4.1 The 2011 Act makes changes to the governance arrangements for policing in England and Wales, with the exception of the City of London police area. The Act abolishes the police authorities responsible for maintaining police forces outside London and replaces them with directly elected Police and Crime Commissioners (“PCCs”). The Act also abolishes the Metropolitan Police Authority and replaces it with the Mayor’s Office for Policing and Crime (“MOPC”) – an office held by the Mayor of London. PCCs and the MOPC are referred to collectively in the Act as elected local policing bodies.
 - 4.2 The 2011 Act provides for Chief Officers of Police of forces outside London (Chief Constables) to be appointed by the PCC – previously they were appointed by the police authority. The Act provides for the Chief Officer of Police for the Metropolitan Police District (the Commissioner) and the Deputy Commissioner to continue to be appointed by the Queen on the advice of the Secretary of State. The MOPC has the power to suspend or remove the Commissioner or Deputy Commissioner, with the approval of the Secretary of State.
 - 4.3 The 2011 Act further provides for senior police officers in forces other than the City of London force to be appointed by the Chief Officer of Police – previously these officers were appointed by the police authority. The ranks concerned are those of Assistant Chief Constable and Deputy Chief Constable

Assistant in police forces outside London, and Commander, Deputy Assistant Commissioner and Assistant Commissioner in the Metropolitan Police force.

4.4 The 2011 Act makes no changes to the arrangements for policing governance in the City of London police area.

4.5 The relevant provisions of the 2011 Act come into force on 16th January 2012 in relation to the Metropolitan Police District. They will come into force on 22nd November 2012 in the rest of England and Wales.

5. Territorial Extent and Application

5.1 This instrument applies to England and Wales.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- *What is being done and why*

7.1 This instrument amends the Police Appeals Tribunals Rules 1999 (“the 1999 Rules”) and the Police Appeals Tribunals Rules 2008 (“the 2008 Rules”) to reflect changes made by the 2011 Act.

7.2 Rule 3(2) has the effect that references to a police authority in the 1999 Rules apply to the Mayor’s Office for Policing and Crime. These references are to be found in the following provisions of the 1999 Rules: rule 4(1), rule 5(3), rule 6(1), (3), (4), (5) and (7), rule 7 and rule 13.

7.3 Rule 3(3) amends rule 4(1) of the 1999 Rules with the effect that the Mayor’s Office for Policing and Crime will designate a person to act as respondent only in cases where the appellant is the Commissioner of Police of the Metropolis or a senior officer exercising functions of the Commissioner. In a case where the appellant is any other officer of the Metropolitan Police, the respondent will be the Commissioner.

7.4 Rule 4 makes similar amendments to the 2008 Rules as those made to the 1999 Rules by rule 3. The provisions of the 2008 Rules affected by rule 4(2) of these Rules are rule 3(1), rule 6(2), rule 7(3), rule 8(1), rule 9(1), (2), (4), (6)(b), (7), (8) and (11), rule 10(1) and (3), rule 11(5), rule 15(4), rule 16(6) and rule 22(4), (5) and (6).

7.5 Rules 5 and 6 makes further provision in relation to the changes made by rules 3(3) and 4(3), ensuring that action taken by a person designated by a police authority as respondent remains valid when the person is replaced as respondent by the chief officer of police. The 2011 Act itself contains provision to ensure the validity of action taken by police authorities on their

replacement by the new policing bodies, so there is no need for these Rules to make provision in that regard (see paragraph 21 of Schedule 15 to the 2011 Act).

7.6 These Rules come into force on 16th January 2012, to coincide with the creation of the Mayor's Office for Policing and Crime. Further regulations will be made later in 2012 to implement the same changes outside London when PCCs are established, and also to implement further reforms to the police performance and conduct system affecting the whole of England and Wales.

- ***Consolidation***

7.7 These Rules make limited amendments consequent upon provisions in the 2011 Act, that have to be made at relatively short notice before the relevant provisions of the Act come into force in relation to the Metropolitan Police District. Accordingly this is not regarded as a suitable opportunity to consolidate these and other amendments that have been made to the rules dealing with police performance and conduct appeals.

8. Consultation outcome

8.1 The Secretary of State consulted with the Independent Police Complaints Commission, the Association of Chief Police Officers, the Association of Police Authorities and the Police Advisory Board for England and Wales on this instrument and reflected comments made by these bodies.

9. Guidance

9.1 An addendum to the Home Office Guidance on Police Officer Misconduct, Unsatisfactory Performance and Attendance Management Procedures is being issued to coincide with the coming into force of these Regulations. This addendum to the 2008 guidance will assist the Metropolitan Police and the MOPC in implementing the changes.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies.

10.2 There is no impact on the public sector.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 The Home Office will monitor the effect of these Rules in the Metropolitan Police District as part of the process of developing the further amending rules in 2012.

13. Contact

13.1 Steve Newby at the Home Office Tel: 020 7035 0715 or email: steve.newby@homeoffice.gsi.gov.uk can answer any queries regarding the instrument.