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STATUTORY INSTRUMENTS

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**2015 No. 25**

**The Ministry of Defence Police (Conduct etc.) Regulations 2015**

**PART 4**

**Misconduct Proceedings**

**Appeal from misconduct meeting: officers other than senior officers**

**42.**—(1) Where the officer concerned is an officer, other than a senior officer, whose case was decided at a misconduct meeting, the officer may, subject to the provisions of this regulation, appeal—

- (a) if the officer admitted that the conduct amounted to misconduct, against any disciplinary action imposed under regulation 39; or
- (b) if (after the officer denied misconduct) the person conducting the misconduct meeting found that the officer's conduct amounted to misconduct, against that finding or any disciplinary action imposed under regulation 39.

(2) The only grounds of appeal under this regulation are that—

- (a) the finding or disciplinary action imposed was unreasonable;
- (b) there is evidence that could not reasonably have been considered at the misconduct meeting which could have materially affected the finding or decision on disciplinary action; or
- (c) there was a serious breach of the procedures set out in these Regulations or other unfairness which could have materially affected the finding or decision on disciplinary action.

(3) An appeal under this regulation may be commenced by the officer concerned giving written notice of appeal to the relevant authority—

- (a) subject to paragraph (4), before the end of 7 working days beginning with the first working day after the written notice and summary of reasons is given under regulation 40; and
- (b) stating the grounds of appeal and whether a meeting is requested.

(4) The relevant authority may extend the time period specified in paragraph (3)(a) where it considers that it would be in the interests of justice to do so.

(5) An appeal under this regulation shall be determined—

- (a) where the person who conducted the misconduct meeting was a member of a police force, by—
  - (i) a member of a police force of at least one rank higher than that person; or
  - (ii) unless the case substantially involves operational policing matters, a staff member who, in the opinion of the relevant authority, is more senior than that person;
- (b) where the person who conducted the misconduct meeting was a staff member, by—
  - (i) a member of a police force who, in the opinion of the relevant authority is more senior than that person; or

- (ii) a more senior staff member,  
who is not an interested party, appointed by the relevant authority.
- (6) The relevant authority must as soon as reasonably practicable give the officer concerned written notice of—
- (a) the name of the person appointed to determine the appeal under paragraph (5);
  - (b) the name of any person appointed under regulation 11(2) to advise the person determining the appeal; and
  - (c) the effect of paragraphs (7) to (10) of this regulation.
- (7) Once notified the officer concerned may object to any person who is to—
- (a) determine the appeal; or
  - (b) advise the person determining the appeal.
- (8) Any such objection must be made in writing to the relevant authority before the end of 3 working days beginning with the first working day after the officer concerned is given notice of the person's name and must set out the grounds of objection of the officer concerned.
- (9) The relevant authority must notify the officer concerned in writing whether it upholds or rejects an objection made under paragraph (7).
- (10) If the relevant authority upholds the objection, the person to whom the officer concerned objects shall be replaced (in accordance with regulation 11(2) or paragraph (5) as appropriate).
- (11) As soon as reasonably practicable after any such new appointment, the relevant authority shall notify in writing the officer concerned of the name of the new person appointed.
- (12) The officer concerned may object to the appointment of a person appointed under paragraph (10).
- (13) Any such objection must be made in accordance with paragraph (8), provided that it must be made before the end of 3 working days beginning with the first working day after the officer concerned is given the notice referred to in paragraph (11); and the relevant authority must comply with paragraphs (9) to (11) in relation to that objection, but paragraph (12) shall not apply.