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STATUTORY INSTRUMENTS

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**2017 No. 1134**

**The Police (Conduct, Complaints and Misconduct  
and Appeal Tribunal) (Amendment) Regulations 2017**

**PART 3**

**Amendment of the 2012 Rules**

**Amendment of the 2012 Rules**

**12.** The 2012 Rules are amended in accordance with this Part.

**Amendment of rule 3 (interpretation)**

**13.** In rule 3(1)—

(a) in the appropriate places insert the following definitions—

““the 1996 Act” means the Police Act 1996;”;

““disciplinary action”—

(a) in relation to a police officer, has the same meaning as in the Conduct Regulations;

(b) in relation to a former police officer, means a finding that he would have been dismissed if he had not ceased to be a member of a police force or a special constable;”;

““relevant time” means, in relation to a former police officer, the time immediately before he ceased to be such an officer;”;

(b) in the definition of “appellant” after “officer” insert “or a former police officer”;

(c) in the definition of “relevant local policing body”—

(i) in paragraph (a)—

(aa) after “the appellant” insert “(where the appellant is a police officer)”;

(bb) at the end omit “or”;

(ii) in paragraph (b) after “the appellant” insert “(where the appellant is a police officer)”;

(iii) after paragraph (b) insert—

“(c) the police force of which a former police officer who wishes to appeal to a tribunal, or the appellant (where the appellant is a former police officer), was a member at the relevant time; or

(d) the police force for the police area for which a former police officer who wishes to appeal to a tribunal, or the appellant (where the appellant is a former police officer), was appointed as a special constable at the relevant time;”;

(d) in the definition of “relevant decision” for “4 or 5” substitute “4, 5 or 5A”;

- (e) in the definition of “relevant police force”—
  - (i) at the end of paragraph (a) omit “and”;
  - (ii) after paragraph (b) insert—
    - “(c) where the appellant was a member of a police force at the relevant time, the police force of which he was a member; and
    - (d) where the appellant was a special constable at the relevant time, the police force maintained for the police area for which he was appointed.”.

#### **New rule 5A**

14. After rule 5 (circumstances in which a police officer may appeal to a tribunal) insert—

##### **“Circumstances in which a former police officer may appeal to a tribunal**

**5A.—**(1) Subject to paragraph (3), a former police officer to whom paragraph (2) applies may appeal to a tribunal in reliance on one or more of the grounds of appeal referred to in paragraph (4) against—

- (a) the finding referred to in paragraph (2)(a) or (b) made under the Conduct Regulations; or
- (b) any decision to impose disciplinary action under the Conduct Regulations in consequence of that finding,

or both.

(2) This paragraph applies to—

- (a) a former police officer against whom a finding of misconduct or gross misconduct has been made at a misconduct hearing; or
- (b) former police officer against whom a finding of gross misconduct has been made at a special case hearing.

(3) A former police officer may not appeal to a tribunal against the finding referred to in paragraph (2)(a) or (b) where that finding was made following acceptance by the former officer that his conduct amounted to misconduct or gross misconduct (as the case may be).

(4) The grounds of appeal under this rule are—

- (a) that the finding or decision to impose disciplinary action was unreasonable;
- (b) that there is evidence that could not reasonably have been considered at the original hearing which could have materially affected the finding or decision to impose disciplinary action; or
- (c) that there was a breach of the procedures set out in the Conduct Regulations, the Police (Complaints and Misconduct) Regulations 2012 or Schedule 3 to the 2002 Act, or other unfairness which could have materially affected the finding or decision to impose disciplinary action.”.

#### **Amendment of rule 6 (notice of appeal)**

15. In rule 6—

- (a) in paragraph (1) after “officer” insert “or a former police officer”;
- (b) in paragraph (3) after “officer” insert “or former officer”.

**Amendment of rule 7 (notice of appeal)**

16. In rule 7—

- (a) in paragraph (1) after “officer” insert “or a former police officer”;
- (b) in paragraph (2)—
  - (i) after “officer” insert “or a former police officer”;
  - (ii) after “officer’s” insert “or former officer’s”.

**Amendment of rule 8 (the respondent)**

17. In rule 8—

- (a) in paragraph (1)—
  - (i) in sub-paragraph (a) after “police” insert “or a former police officer who was a chief officer of police at the relevant time”;
  - (ii) in sub-paragraph (b) after “officer” insert “or a former police officer who was an acting chief officer at the relevant time”;
- (b) in paragraph (2) after “officer” insert “or other former police officer”.

**Amendment of rule 9 (procedure on notice of appeal)**

18. In rule 9—

- (a) in paragraph (5)(a) after “4(4)(b)” insert “, 5A(4)(b)”;
- (b) in paragraph (9) after “4(4)(b)”, in both places where it appears, insert “, 5A(4)(b)”.

**Amendment of rule 14 (notice of the hearing)**

19. In rule 14(1)—

- (a) in paragraph (2) after “4(4)(b)” insert “, 5A(4)(b)”;
- (b) in paragraph (4)(a) for “officer concerned” substitute “appellant”;
- (c) in paragraph (9) after “4” insert or “5A”.

**Amendment of rule 15 (legal and other representation)**

20. In rule 15(4) after “officer of the” insert “relevant”.

**Amendment of rule 18 (attendance at hearing)**

21. In rule 18(1)(2) after “4” insert “or 5A”.

**Amendment of rule 19 (attendance of complainant at hearing)**

22. In rule 19(7)(3) after “4” insert “or 5A”.

**Amendment of rule 20 (attendance of IPCC at hearing)**

23. In rule 20(4)(4) after “4” insert “or 5A”.

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(1) Paragraphs (4) to (9) were inserted by rules 2 and 4 of S.I. 2015/625.  
(2) Rule 18 was substituted by rules 2 and 5 of S.I. 2015/625.  
(3) Paragraph (7) was inserted by rules 2 and 6(b) of S.I. 2015/625.  
(4) Paragraph (4) was inserted by rules 2 and 7(b) of S.I. 2015/625.

**Amendment of rule 21 (exclusion from hearing)**

24. In rule 21(3)(5) after “4” insert “or 5A”.

**Amendment of rule 22 (statement of tribunal’s determination)**

25. In rule 22(6)—

(a) in paragraph (2) for “or rule 5(6)(b) or (c)” substitute “, rule 5(6)(b) or (c) or rule 5A(4)(b) or (c)”;

(b) after paragraph (5) insert—

“(5A) Paragraph (5B) applies in a case where information in relation to the appellant which is included in the police barred list has been published by the College of Policing under section 88G(2) of the Police Act 1996(7).

(5B) The chair may include in the written statement any representations that the chair considers it appropriate to make in relation to the appellant and the question mentioned in regulation 11(2) of the Police Barred List and Advisory List Regulations 2017.”;

(c) in paragraph (6) before “local” insert “relevant”;

(d) after paragraph (13) insert—

“(13A) In any case where the appellant is a former police officer and disciplinary action was imposed under the Conduct Regulations, if on determination of the appeal the tribunal’s decision results in disciplinary action no longer being imposed, the relevant local policing body shall notify the College of Policing of the decision of the tribunal.”;

(e) for paragraph (14) substitute—

“(14) Paragraphs (9) to (13A) do not apply to an appeal brought in accordance with rule 5.”.

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(5) Paragraph (3) was inserted by rules 2 and 8 of S.I. 2015/625.

(6) Paragraphs (9) to (14) were inserted by rules 2 and 9(b) of S.I. 2015/625. There is another amendment of this rule but it is not relevant to these Regulations.

(7) 1996 c.16. Section 88G was inserted by section 30 of, and Schedule 8 to, the Policing and Crime Act 2017.