
STATUTORY INSTRUMENTS

2018 No. 1119

POLICE

The Ministry of Defence Police (Conduct and Appeals Tribunals) (Amendment) Regulations 2018

<i>Made</i>	- - - -	<i>29th October 2018</i>
<i>Laid before Parliament</i>		<i>31st October 2018</i>
<i>Coming into force</i>	- -	<i>1st December 2018</i>

The Secretary of State, in exercise of the powers conferred by sections 3A(1) to (3), 4(1) to (5) and 4A(1) to (4) and (7) of the Ministry of Defence Police Act 1987^{M1}, makes the following Regulations.

Marginal Citations

M1 1987 c. 4. Section 3A was inserted by section 79(1) of the [Police Reform Act 2002 \(2002 c. 30\)](#). Subsections (1) and (1A) of that section were substituted for subsection (1) as originally enacted by paragraph 14(2) of Schedule 22 to, the [Criminal Justice and Immigration Act 2008 \(2008 c. 4\)](#) (“the 2008 Act”) and subsequently amended by section 6 of the [Armed Forces Act 2011 \(2011 c. 18\)](#). Subsections (1B) to (1H) were inserted by paragraph 2(2) of Schedule 7 to the [Policing and Crime Act 2017 \(2017 c. 3\)](#) (“the 2017 Act”) and subsection (1B) was subsequently amended by paragraph 63(2) of Schedule 9 to the 2017 Act. Subsection (2) was substituted by paragraph 14(3) of Schedule 22 to the 2008 Act and subsequently amended by paragraph 2(1) and (3) of Schedule 7 to the 2017 Act. Section 4 was substituted by paragraph 15 of Schedule 22 to the 2008 Act. Subsection (4) of that section was amended by paragraph 3(a) and (b) of Schedule 7 to the 2017 Act. Subsection (5) was amended by paragraph 63(3) of Schedule 9 to the 2017 Act. Section 4A was inserted by section 79(2) of the [Police Reform Act 2002 \(2002 c. 30\)](#) and subsequently substituted by paragraph 16 of Schedule 22 to the 2008 Act. Subsection (1) of that section was amended by paragraph 4 of Schedule 7 to the 2017 Act and by paragraph 20(6) of Schedule 2 to [S.I. 2013/602](#).

PART 1

General

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Ministry of Defence Police (Conduct and Appeals Tribunals) (Amendment) Regulations 2018 and come into force on 1st December 2018.

(2) In these Regulations—

“the 1987 Act” means the Ministry of Defence Police Act 1987;

“the 2009 Regulations” means the Ministry of Defence Police Appeals Tribunals Regulations 2009 ^{M2};

“the Conduct Regulations” means the Ministry of Defence Police (Conduct etc.) Regulations 2015 ^{M3}.

Marginal Citations

M2 [S.I. 2009/3070](#), amended by [S.I. 2017/84](#).

M3 [S.I. 2015/25](#), amended by [S.I. 2017/84](#).

PART 2

Amendment of the Conduct Regulations

Amendment of the Conduct Regulations

^{F1}2.

F1 [Regs. 2-22 revoked \(2.11.2020\) by The Ministry of Defence Police \(Conduct, Performance and Appeals Tribunals\) Regulations 2020 \(S.I. 2020/1087\)](#), regs. 1, **6(1)(c)** (with reg. 6(2))

Amendment of regulation 3 (interpretation)

^{F1}3.

F1 [Regs. 2-22 revoked \(2.11.2020\) by The Ministry of Defence Police \(Conduct, Performance and Appeals Tribunals\) Regulations 2020 \(S.I. 2020/1087\)](#), regs. 1, **6(1)(c)** (with reg. 6(2))

Amendment of regulation 4 (the harm test)

^{F1}4.

F1 [Regs. 2-22 revoked \(2.11.2020\) by The Ministry of Defence Police \(Conduct, Performance and Appeals Tribunals\) Regulations 2020 \(S.I. 2020/1087\)](#), regs. 1, **6(1)(c)** (with reg. 6(2))

Amendment of regulation 9 (application)

^{F1}5.

F1 [Regs. 2-22 revoked \(2.11.2020\) by The Ministry of Defence Police \(Conduct, Performance and Appeals Tribunals\) Regulations 2020 \(S.I. 2020/1087\)](#), regs. 1, **6(1)(c)** (with reg. 6(2))

Amendment of regulation 11 (legal and other representation for the relevant authority)

^{F1}6.

F1 Regs. 2-22 revoked (2.11.2020) by [The Ministry of Defence Police \(Conduct, Performance and Appeals Tribunals\) Regulations 2020 \(S.I. 2020/1087\)](#), regs. 1, **6(1)(c)** (with reg. 6(2))

Amendment of regulation 15 (application of Part 3)

F17.

F1 Regs. 2-22 revoked (2.11.2020) by [The Ministry of Defence Police \(Conduct, Performance and Appeals Tribunals\) Regulations 2020 \(S.I. 2020/1087\)](#), regs. 1, **6(1)(c)** (with reg. 6(2))

Amendment of regulation 24A (national security: power to give directions in relation to misconduct hearings)

F18.

F1 Regs. 2-22 revoked (2.11.2020) by [The Ministry of Defence Police \(Conduct, Performance and Appeals Tribunals\) Regulations 2020 \(S.I. 2020/1087\)](#), regs. 1, **6(1)(c)** (with reg. 6(2))

Amendment of regulation 33 (participation of Director General or Ombudsman and investigator at misconduct proceedings)

F19.

F1 Regs. 2-22 revoked (2.11.2020) by [The Ministry of Defence Police \(Conduct, Performance and Appeals Tribunals\) Regulations 2020 \(S.I. 2020/1087\)](#), regs. 1, **6(1)(c)** (with reg. 6(2))

Amendment of regulation 35 (attendance of others at misconduct proceedings)

F110.

F1 Regs. 2-22 revoked (2.11.2020) by [The Ministry of Defence Police \(Conduct, Performance and Appeals Tribunals\) Regulations 2020 \(S.I. 2020/1087\)](#), regs. 1, **6(1)(c)** (with reg. 6(2))

Amendment of regulation 38 (senior officers: further meeting or further hearing of MOD Police Committee to consider disciplinary action)

F111.

F1 Regs. 2-22 revoked (2.11.2020) by [The Ministry of Defence Police \(Conduct, Performance and Appeals Tribunals\) Regulations 2020 \(S.I. 2020/1087\)](#), regs. 1, **6(1)(c)** (with reg. 6(2))

Amendment of regulation 39 (outcome of misconduct proceedings)

F112.

F1 Regs. 2-22 revoked (2.11.2020) by [The Ministry of Defence Police \(Conduct, Performance and Appeals Tribunals\) Regulations 2020 \(S.I. 2020/1087\)](#), regs. 1, **6(1)(c)** (with reg. 6(2))

Amendment of regulation 45A (national security: power to give directions in relation to special case hearings)

^{F1}13.

F1 Regs. 2-22 revoked (2.11.2020) by [The Ministry of Defence Police \(Conduct, Performance and Appeals Tribunals\) Regulations 2020 \(S.I. 2020/1087\)](#), regs. 1, **6(1)(c)** (with reg. 6(2))

Substitution of regulation 46 (notice of referral to special case hearing)

^{F1}14.

F1 Regs. 2-22 revoked (2.11.2020) by [The Ministry of Defence Police \(Conduct, Performance and Appeals Tribunals\) Regulations 2020 \(S.I. 2020/1087\)](#), regs. 1, **6(1)(c)** (with reg. 6(2))

Amendment of regulation 48 (notice of special case hearing)

^{F1}15.

F1 Regs. 2-22 revoked (2.11.2020) by [The Ministry of Defence Police \(Conduct, Performance and Appeals Tribunals\) Regulations 2020 \(S.I. 2020/1087\)](#), regs. 1, **6(1)(c)** (with reg. 6(2))

Amendment of regulation 49 (procedure on receipt of notice of special case hearing)

^{F1}16.

F1 Regs. 2-22 revoked (2.11.2020) by [The Ministry of Defence Police \(Conduct, Performance and Appeals Tribunals\) Regulations 2020 \(S.I. 2020/1087\)](#), regs. 1, **6(1)(c)** (with reg. 6(2))

Amendment of regulation 52 (documents to be supplied)

^{F1}17.

F1 Regs. 2-22 revoked (2.11.2020) by [The Ministry of Defence Police \(Conduct, Performance and Appeals Tribunals\) Regulations 2020 \(S.I. 2020/1087\)](#), regs. 1, **6(1)(c)** (with reg. 6(2))

Amendment of regulation 54 (participation of Director General or the Ombudsman and investigator at special case hearing)

^{F1}18.

F1 Regs. 2-22 revoked (2.11.2020) by [The Ministry of Defence Police \(Conduct, Performance and Appeals Tribunals\) Regulations 2020 \(S.I. 2020/1087\)](#), regs. 1, **6(1)(c)** (with reg. 6(2))

Amendment of regulation 56 (attendance of others at special case hearing)

^{F1}19.

F1 Regs. 2-22 revoked (2.11.2020) by [The Ministry of Defence Police \(Conduct, Performance and Appeals Tribunals\) Regulations 2020 \(S.I. 2020/1087\)](#), regs. 1, **6(1)(c)** (with reg. 6(2))

Amendment of regulation 57 (procedure at special case hearing)

F120.

F1 Regs. 2-22 revoked (2.11.2020) by [The Ministry of Defence Police \(Conduct, Performance and Appeals Tribunals\) Regulations 2020 \(S.I. 2020/1087\)](#), regs. 1, **6(1)(c)** (with reg. 6(2))

Amendment of regulation 58 (senior officers: further hearing of MOD Police Committee to consider disciplinary action)

F121.

F1 Regs. 2-22 revoked (2.11.2020) by [The Ministry of Defence Police \(Conduct, Performance and Appeals Tribunals\) Regulations 2020 \(S.I. 2020/1087\)](#), regs. 1, **6(1)(c)** (with reg. 6(2))

New Schedule

F122.

F1 Regs. 2-22 revoked (2.11.2020) by [The Ministry of Defence Police \(Conduct, Performance and Appeals Tribunals\) Regulations 2020 \(S.I. 2020/1087\)](#), regs. 1, **6(1)(c)** (with reg. 6(2))

PART 3

Amendment of the 2009 Regulations

Amendment of the 2009 Regulations

F223.

F2 Regs. 23-34 revoked (2.11.2020) by [The Ministry of Defence Police \(Conduct, Performance and Appeals Tribunals\) Regulations 2020 \(S.I. 2020/1087\)](#), regs. 1, **6(5)(c)** (with reg. 6(6))

Amendment of regulation 3 (interpretation)

F224.

F2 Regs. 23-34 revoked (2.11.2020) by [The Ministry of Defence Police \(Conduct, Performance and Appeals Tribunals\) Regulations 2020 \(S.I. 2020/1087\)](#), regs. 1, **6(5)(c)** (with reg. 6(6))

New regulation 4B

F225.

Changes to legislation: There are currently no known outstanding effects for the The Ministry of Defence Police (Conduct and Appeals Tribunals) (Amendment) Regulations 2018. (See end of Document for details)

F2 Regs. 23-34 revoked (2.11.2020) by [The Ministry of Defence Police \(Conduct, Performance and Appeals Tribunals\) Regulations 2020 \(S.I. 2020/1087\)](#), regs. 1, **6(5)(c)** (with reg. 6(6))

Amendment of regulation 5 (appointment and composition of police appeals tribunal)

F226.

F2 Regs. 23-34 revoked (2.11.2020) by [The Ministry of Defence Police \(Conduct, Performance and Appeals Tribunals\) Regulations 2020 \(S.I. 2020/1087\)](#), regs. 1, **6(5)(c)** (with reg. 6(6))

Amendment of regulation 6 (notice of appeal)

F227.

F2 Regs. 23-34 revoked (2.11.2020) by [The Ministry of Defence Police \(Conduct, Performance and Appeals Tribunals\) Regulations 2020 \(S.I. 2020/1087\)](#), regs. 1, **6(5)(c)** (with reg. 6(6))

Amendment of regulation 7

F228.

F2 Regs. 23-34 revoked (2.11.2020) by [The Ministry of Defence Police \(Conduct, Performance and Appeals Tribunals\) Regulations 2020 \(S.I. 2020/1087\)](#), regs. 1, **6(5)(c)** (with reg. 6(6))

Amendment of regulation 8 (the respondent)

F229.

F2 Regs. 23-34 revoked (2.11.2020) by [The Ministry of Defence Police \(Conduct, Performance and Appeals Tribunals\) Regulations 2020 \(S.I. 2020/1087\)](#), regs. 1, **6(5)(c)** (with reg. 6(6))

Amendment of regulation 9 (procedure on notice of appeal)

F230.

F2 Regs. 23-34 revoked (2.11.2020) by [The Ministry of Defence Police \(Conduct, Performance and Appeals Tribunals\) Regulations 2020 \(S.I. 2020/1087\)](#), regs. 1, **6(5)(c)** (with reg. 6(6))

Amendment of regulation 14 (notice of the hearing)

F231.

F2 Regs. 23-34 revoked (2.11.2020) by [The Ministry of Defence Police \(Conduct, Performance and Appeals Tribunals\) Regulations 2020 \(S.I. 2020/1087\)](#), regs. 1, **6(5)(c)** (with reg. 6(6))

Amendment of regulation 15 (legal and other representation)

^{F2}**32.**

F2 Regs. 23-34 revoked (2.11.2020) by [The Ministry of Defence Police \(Conduct, Performance and Appeals Tribunals\) Regulations 2020 \(S.I. 2020/1087\)](#), regs. 1, **6(5)(c)** (with reg. 6(6))

Amendment of regulation 18 (attendance at hearing)

^{F2}**33.**

F2 Regs. 23-34 revoked (2.11.2020) by [The Ministry of Defence Police \(Conduct, Performance and Appeals Tribunals\) Regulations 2020 \(S.I. 2020/1087\)](#), regs. 1, **6(5)(c)** (with reg. 6(6))

Amendment of regulation 22 (tribunal's determination)

^{F2}**34.**

F2 Regs. 23-34 revoked (2.11.2020) by [The Ministry of Defence Police \(Conduct, Performance and Appeals Tribunals\) Regulations 2020 \(S.I. 2020/1087\)](#), regs. 1, **6(5)(c)** (with reg. 6(6))

Ministry of Defence

Tobias Ellwood
Parliamentary Under Secretary of State

Changes to legislation: There are currently no known outstanding effects for the The Ministry of Defence Police (Conduct and Appeals Tribunals) (Amendment) Regulations 2018. (See end of Document for details)

F3 SCHEDULE

Regulation 22

Modifications to the Conduct Regulations

F3 Sch. revoked (2.11.2020) by [The Ministry of Defence Police \(Conduct, Performance and Appeals Tribunals\) Regulations 2020 \(S.I. 2020/1087\)](#), regs. 1, **6(1)(c)** (with reg. 6(2))

“SCHEDULE 1A

Regulation 9(2)

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EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Ministry of Defence Police (Conduct etc.) Regulations 2015 (S.I. 2015/25) (“the Conduct Regulations”) and the Ministry of Defence Police Appeals Tribunals Regulations 2009 (S.I. 2009/3070) (“the Appeal Regulations”), both as previously amended by the Ministry of Defence Police (Conduct, Performance and Appeals Tribunals) (Amendment) Regulations 2017 (S.I. 2017/84), to apply modified disciplinary procedures and associated appeals procedures to former Ministry of Defence Police (“MDP”) officers.

Part 2 amends the Conduct Regulations. Regulation 5 amends the application provisions (regulation 9 of the Conduct Regulations) to set out the circumstances in which the Conduct Regulations apply, with the modifications set out in new Schedule 1A to those Regulations (inserted by regulation 22 of, and the Schedule to, these Regulations), to former MDP officers.

Part 3 amends the Appeal Regulations. Regulation 25 inserts a new regulation setting out the grounds on which a former MDP officer may appeal to a police appeals tribunal. Regulations 24(b) and (d), 26 to 33 and 34(a) and (c) make further amendments to the Appeal Regulations so that they apply to such persons.

Part 2 further amends the Conduct Regulations as follows. Regulation 9(b) makes a consequential amendment. Regulation 3 inserts a definition of “Convention rights” relevant to the amendments made by regulations 10 and 19 (see below) and amends the definition of “external procedures” to exclude procedures established with the Police Investigations and Review Commissioner in Scotland so that the provisions of Part 3 (investigations) of the Conduct Regulations apply to cases investigated under those procedures. It also corrects the definition of “disciplinary proceedings” to remove the reference to any appeal and amends the definition of “the officer concerned” to remove the unnecessary cross-reference.

Regulations 4 and 6 make minor corrections, regulations 7 and 12 correct errors relating to the circumstances in which Part 3 does not apply (regulation 7) and references to when disciplinary action may be imposed (regulation 12) and regulations 10 and 19 amend provisions relating to who may attend misconduct proceedings and special case hearings respectively. Regulations 8 and 13 correct provisions conferring on the Secretary of State a power to give directions so that they also provide for further hearings (following misconduct hearings) in relation to senior officers. Regulations 9(a) and 18 correct provisions relating to the legal representation of the Director General or Ombudsman at misconduct hearings and special case hearings respectively. Regulations 11 and 21 amend incorrect cross-references and regulations 14 to 17, 19 and 20 amend provisions relating to notices of, and procedures at, special case hearings.

Part 3 further amends the Appeal Regulations as follows. Regulation 24(a) and (c) respectively insert a missing definition and amend the definition of “head of HR”. Regulation 34(b) amends the provision relating to the remission of a matter to a new panel where a tribunal determines that a ground of appeal has been made out.

A full Impact Assessment has not been prepared for this instrument as no, or no significant, impact on the private, voluntary or private sector is foreseen.

Changes to legislation:

There are currently no known outstanding effects for the The Ministry of Defence Police (Conduct and Appeals Tribunals) (Amendment) Regulations 2018.