



Police and Fire Reform (Scotland) Act 2012

2012 asp 8

PART 1

POLICE REFORM

CHAPTER 9

POLICE APPEALS TRIBUNALS

56 Right to appeal to police appeals tribunal

- (1) A constable may appeal to a police appeals tribunal against any decision to dismiss the constable, or to demote the constable in rank, taken in pursuance of regulations made under section 48.
- (2) An appeal is competent only if the constable has exhausted any available process of review or appeal provided for in such regulations.
- (3) Schedule 3 makes provision about police appeals tribunals, the rules relating to appeals, and other relevant matters.

57 Representation

- (1) Before determining an appeal, a police appeals tribunal must—
 - (a) give both the appellant and the respondent a chance to make representations (whether by way of written submissions or oral hearing), and
 - (b) consider such representations.
- (2) Either party may require that the representations are to be made by way of oral hearing.
- (3) Where an oral hearing is to be held, the parties may elect to be represented (including by a legally qualified person).

58 Determinations by tribunal

- (1) A police appeals tribunal may determine an appeal by—
 - (a) confirming the decision being appealed, or
 - (b) replacing that decision with any less severe decision which could have been made by the person who made it.
- (2) Where the determination replaces the decision appealed against, it takes effect from the date of the decision which resulted in the dismissal or demotion in rank of the appellant.
- (3) Subsection (4) applies where a determination made by a police appeals tribunal reinstates the appellant—
 - (a) as a constable,
 - (b) in—
 - (i) the rank previously held by the appellant, or
 - (ii) a different rank.
- (4) The appellant is to be deemed, for the purposes of reckoning service for pension and to such extent (if any) as may be determined by the tribunal for the purposes of pay, to have served as a constable, or in the reinstated or different rank, continuously from the date of the decision which resulted in the dismissal or demotion in rank of the appellant to the date of the tribunal's determination.
- (5) In determining an appeal, the tribunal may deal with such other matters relating to the appellant's reinstatement or period of service as the tribunal thinks fit including, in particular, any periods where the appellant was suspended in consequence of the proceedings which led to the appellant's dismissal.

59 Powers to obtain information

- (1) The person appointed to chair a police appeals tribunal (the chairing member) may require the appellant, respondent or any other person—
 - (a) to attend a hearing of the tribunal, at such time and such place as the chairing member may specify, for the purposes of giving evidence,
 - (b) to give to the tribunal, by such day as the chairing member may specify, such documents or information as the tribunal may reasonably require.
- (2) Subsection (1) does not authorise the chairing member or the tribunal to require any person to answer any question or to disclose anything which the person would be entitled to refuse to answer or disclose in civil proceedings in the Court of Session.
- (3) It is an offence for any person on whom a requirement under subsection (1) is served to—
 - (a) fail to attend a hearing of the tribunal as required by the citation,
 - (b) refuse or fail, while attending such a hearing as so required, to answer any question,
 - (c) refuse or fail to give the tribunal any document or information so required,
 - (d) knowingly or recklessly make any statement in respect of any information so required which is false or misleading in a material respect, or
 - (e) deliberately alter, suppress, conceal or destroy any document so required.

- (4) A person who is guilty of an offence under subsection (3) is liable on summary conviction to a fine not exceeding level 2 on the standard scale.
- (5) It is a defence for a person charged with an offence under subsection (3)(a), (b) or (c) to show that the person had a reasonable excuse for the refusal or failure.