
EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules make provision as to the procedure on appeals by constables under section 56 of the Police and Fire Reform (Scotland) Act 2012 (“the 2012 Act”) to the Police Appeals Tribunal (“the Tribunal”) established by that Act.

Rule 3 provides for the Registrar to the Tribunal to be appointed by the Scottish Police Authority. The Registrar may not be a constable. The Rules confer various functions on the Registrar, including the establishment of a register of all appeals.

Rule 4 establishes that the respondent is the Scottish Police Authority in the case of senior officer appeals (chief constable, deputy chief constables and assistant chief constables), and the chief constable in the case of other ranks.

The procedure for making an appeal is prescribed in rule 5. An appellant has 28 days following the date of the decision being appealed to submit a notice of appeal and accompanying documents. An extension of time may be granted in relation to the accompanying documents. Under rule 6 the respondent has 21 days after the notice of appeal was sent to notify intention to oppose the appeal together with accompanying documents. Extension of time for submission of accompanying documents is also possible for the respondent.

Rule 7 sets out the procedure for adjustment of statements of case.

Once adjustment has come to an end the Registrar must send a notice to both parties requesting each of them to confirm whether they require an oral hearing. Each party must confirm within 7 days after the notice was sent. If neither party requests an oral hearing then the Registrar will let both know that no oral hearing will take place within 14 days and the appeal will then be dealt with under rule 16.

If one or both parties request an oral hearing then one will take place and the Registrar will select a date convenient for both parties and give 21 days’ notice of the hearing date (or such less notice as the parties agree). The hearing date must be fixed so as to begin no later than 6 months after the notice of appeal was received by the Registrar.

Rule 10 makes provision in relation to the exercise of the powers in section 59(1) of the 2012 Act for the attendance of individuals and disclosure of documents or information.

Rule 11 allows for the withdrawal of the appeal by the appellant in certain circumstances. Rule 12 makes provision for hearings to be heard in public unless the Tribunal and parties consent to it being heard in private.

Rule 15 sets out the procedural details of a hearing. The Tribunal will determine its own procedure within the boundaries of the Rules but must seek to avoid undue formality. The chairing member of the Tribunal will explain the order of proceedings which it intends to adopt for the particular appeal. Both parties are entitled to give evidence, call and question witnesses and address the Tribunal on both the evidence and the subject-matter of the appeal. The Tribunal may put questions to parties or witnesses itself. If considered just and reasonable, a party may be permitted to rely on grounds not previously included in that party’s statement of case (whether as originally notified or later adjusted) or adduce evidence not submitted with the statement. The Tribunal may adjourn the hearing from time to time and if it has stated the time and place of resumption of the hearing before it adjourns then no further notice of the resumption time and place need be given.

Rule 16 makes provision about the decision of the Tribunal and how it is made. Subject to some exceptions, where no hearing has been requested the decision of the Tribunal must be given not later

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than 6 months after the notice of appeal was received by the Registrar; where a hearing has taken place, not later than a month after the end of the hearing.

Rule 17 makes provision for the excusal of procedural irregularities. Rule 19 makes clear when documents or things are regarded as having been sent.

The Schedule to the Rules makes provision in relation to the transition from the former Police Appeals Tribunals established under the Police (Scotland) Act 1967 (“the 1967 Act”) to those established under Chapter 9 of the 2012 Act. Any right of appeal arising under the 1967 Act before 1st April 2013, in respect of which a notice of appeal has not been sent to the Registrar by that date, is to be dealt with under these Rules. Some consequential modifications of these Rules are made to take account of the origin of that right to appeal from regulations made under the 1967 Act.

Any right of appeal arising under the 1967 Act before 1st April 2013, in respect of which a notice of appeal has been sent to the Registrar by that date (and is therefore an appeal in progress), is to continue to be dealt with under the Rules applicable to Police Appeals Tribunals under the 1967 Act, notwithstanding those Rules are otherwise revoked. Those Rules are therefore saved for the purpose of ensuring such appeals can continue, subject to consequential modifications to take account of the changes made by police reform and the replacement of former police bodies with new police bodies. To facilitate this transitional provision, separate provision is expected to be made in another instrument which saves section 30 and Schedule 3 to the 1967 Act with modifications for this purpose.