Draft Regulations laid before Parliament under section 4A(6) of the Ministry of Defence Police Act 1987, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2009 No. XXXX

POLICE

The Ministry of Defence Police Appeals Tribunals Regulations 2009

Made - - - -	*xx 2009*
Coming into force - -	*1st December 2009*

The Secretary of State makes the following Regulations in exercise of the powers conferred by section 4A of the Ministry of Defence Police Act 1987(**a**).

In accordance with section 4A(6) of the Ministry of Defence Police Act 1987, a draft of these Regulations were laid before Parliament and approved by a resolution of each House of Parliament.

Citation, commencement and extent

1. These Regulations may be cited as the Ministry of Defence Police Appeals Tribunals Regulations 2009 and shall come into force on 1st December 2009.

Revocation and transitional provisions

2.—(1) Subject to paragraph (2), the Ministry of Defence Police Appeal Tribunal Regulations 2004(**b**) ("the 2004 Regulations") are revoked.

(2) In relation to an appeal against a decision made in accordance with the Ministry of Defence Police (Conduct) Regulations 2004(**c**) or the Ministry of Defence Police (Conduct) (Senior Officers) Regulations 2004(**d**) (as the case may be), nothing in these Regulations shall apply and the 2004 Regulations shall continue to have effect.

Interpretation

3.—(1) In these Regulations—

"the 1967 Act" means the Police (Scotland) Act 1967(**e**);

"appellant" means a police officer who has given a notice of appeal in accordance with regulation 6 or 7;

(**a**) 1987 c.4, section 4A was substituted by paragraph 16 of Schedule 22 to the Criminal Justice and Immigration Act 2008 (c.4).
(**b**) S.I. 2004/ 652 as amended by S.I. 2008/2059
(**c**) S.I. 2004/653, as amended by S.I. 2005/3389, and as revoked by S.I. 2009/XXXX.
(**d**) S.I. 2004/654, as revoked by S.I. 2009/XXXX.
(**e**) 1967 c.77.

"chair" for the purposes of regulations 6 to 11 means the chair appointed under regulation 5(3) or 5(5) (as the case may be); and for the purposes of regulations 12 to 22 means the chair of the tribunal;

"Conduct Regulations" means the Ministry of Defence Police (Conduct) Regulations 2009(**a**);

"original hearing" means the misconduct meeting, misconduct hearing or special case hearing under the Conduct Regulations, at or following which the relevant decision was made;

"panel" includes a person who conducted a special case hearing under the Conduct Regulations;

"relevant decision" means the finding, disciplinary action or outcome which may be appealed or is being appealed to a tribunal in accordance with regulation 4, and related expressions shall be construed accordingly;

"head of HR" means the head of Human Resources in the Agency or, if there ceases to be such an office, the person who in the opinion of the Ministry of Defence Police Committee for the time being exercises comparable functions to those exercisable by the holder of that office;

"respondent" has the meaning given by regulation 8;

"specified appeal" means an appeal where the relevant decision arose from a complaint or conduct matter to which—

(a) in relation to England and Wales, paragraph 17, 18 or 19 of Schedule 3 to the 2002 Act (investigations)(**b**), or

(b) in relation to Northern Ireland, section 54, 56 or 57 of the 1998 Act,

applies; and

"tribunal", in relation to a case or appeal, means the police appeals tribunal appointed to determine the case or appeal;

(2) In these Regulations, any expression which is also used in the Conduct Regulations shall have the same meaning as in those Regulations.

(3) Where any written notice or document is to be given or supplied to the appellant under these Regulations, it shall be—

(a) given to the appellant in person; or

(b) left with some person at, or sent by recorded delivery to, the appellant's last known address.

Circumstances in which a police officer may appeal to a tribunal

4.—(1) Subject to paragraph (3), a 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), (b) or (c) made under the Conduct Regulations; or

(b) the disciplinary action, if any, imposed under the Conduct Regulations in consequence of that finding,

or both.

(2) This paragraph applies to—

(a) an officer other than a senior officer against whom a finding of misconduct or gross misconduct has been made at a misconduct hearing; or

(b) a senior officer against whom a finding of misconduct or gross misconduct has been made at a misconduct meeting or a misconduct hearing; or

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(**a**) S.I. 2009/XXXX.

(**b**) Paragraph 17 was amended by paragraph 11(3) of Schedule 2 to and paragraph 15 of Schedule 12 to the Serious Organised Crime and Police Act 2005, paragraph 89 of Schedule 1 to the Police and Justice Act 2006. Paragraph 18 was amended by paragraph 16 of Schedule 12 to the Serious Organised Crime and Police Act 2005. Paragraph 19 was amended by paragraph 17 of Schedule 12 to the Serious Organised Crime and Police Act 2005.

(c) an officer against whom a finding of gross misconduct has been made at a special case hearing.

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

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

(a) that the finding or disciplinary action imposed was unreasonable; or

(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 on disciplinary action; or

(c) that there was a breach of the procedures set out in the Conduct Regulations, the Police (Complaints and Misconduct) Regulations 2004(**a**), Schedule 3 to the 2002 Act(**b**), part VII of the 1998 Act, or other unfairness which could have materially affected the finding or decision on disciplinary action.

Appointment and composition of police appeals tribunal

5.—(1) The composition of the tribunal differs according to—

(a) whether the appellant was a senior officer immediately before the original hearing; and

(b) whether the appellant was a member of the force serving in England and Wales, Scotland or Northern Ireland at the time the relevant conduct occurred or began.

(2) If the appellant was a senior officer immediately before the original hearing, the tribunal is to consist of three members appointed by the head of HR, of whom—

(a) if the appellant was serving in England and Wales or in Northern Ireland —

(i) one shall be a person chosen from a list of persons who satisfy the judicial-appointment eligibility condition within the meaning of section 50 of the Tribunals, Courts and Enforcement Act 2007(**c**) on a 5-year basis and who have been nominated by the Lord Chancellor for the purposes of this regulation;

(ii) one shall be HMCIC or an inspector of constabulary nominated by HMCIC; and

(iii) one shall be the chair of the Ministry of Defence Police Committee or another member of that Committee nominated by that chair;

(b) if the appellant was serving in Scotland—

(i) one shall be a person chosen from a list of persons who have been nominated by the Lord President of the Court of Session for the purposes of Schedule 3 to the 1967 Act;

(ii) one shall be the chair of the Ministry of Defence Police Committee or another member of that Committee nominated by that chair; and

(iii) one shall be a person who is (or has within the previous five years been) an inspector of constabulary for the purposes of section 33 of the 1967 Act.

(3) The member of the tribunal within paragraph (2)(a)(i) or (b)(i) shall be the chair.

(4) If the appellant was a police officer (other than a senior officer) immediately before the original hearing, the tribunal is to consist of four members appointed by the head of HR, of whom—

(a) if the appellant was serving in England and Wales or in Northern Ireland—

(i) one shall be a person chosen from the list referred to in paragraph (2)(a)(i);

(**a**) S.I. 2004/643, as amended by S.I. 2005/3389, 2006/594, 2006/1406, and 2008/2866.

(**b**) Schedule 3 was amended by paragraph 11 of Schedule 2, Schedule 11 and paragraphs 11 to 24 of Schedule 12 to the Serious Organised Crime and Police Act 2005 and by paragraph 89 of Schedule 1 to the Police and Justice Act 2006. It is also amended by paragraphs 3 to 19 of Schedule 23 and part 8 of Schedule 28 to the Criminal Justice and Immigration Act 2008.

(**c**) 2007 c.15.

(ii) one shall be a senior officer;

(iii) one shall be a member of the Ministry of Defence Police Committee; and

(iv) one shall be a retired member of the force or an alternative police force who, at the time of the retirement, was a member of an appropriate staff association;

(b) if the appellant was serving in Scotland—

(i) one shall be a person chosen from the list referred to in paragraph (2)(b)(i);

(ii) one shall be a member of the Ministry of Defence Police Committee;

(iii) one shall be a person chosen from a list maintained by the Secretary of State for the purposes of paragraph 2(1)(c) of Schedule 3 to the 1967 Act of persons who are (or have within the last five years been) chief constables, other than a person who is (or has at any time been) chief constable of the force; and

(iv) one shall be a retired member of the force or an alternative police force who, at the time of the retirement, was of an appropriate rank.

(5) The member of the tribunal within paragraph (4)(a)(i) or (b)(i) shall be the chair.

(6) For the purposes of this regulation "appropriate staff association" means—

(a) the Defence Police Federation, where the panel member was, at the time of the retirement, a member of the force other than a senior officer;

(b) the Police Superintendents' Association of England and Wales, where the panel member was, at the time of the retirement, a member of a police force maintained under section 2 of the 1996 Act of the rank of chief superintendent or superintendent; or

(c) the Police Federation of England and Wales, where the panel member was, at the time of the retirement, a member of a police force maintained under section 2 of the 1996 Act below the rank of superintendent; or

(d) the Police Federation for Northern Ireland, where the panel member was, at the time of the retirement a member of the Police Service for Northern Ireland..

(7) For the purposes of this regulation "appropriate rank" means—

(a) where the appellant was, immediately before the original hearing, of the rank of chief superintendent or superintendent, the same rank (as the case may be); or

(b) in any other case, the rank of chief inspector or below.

(8) If at any time that is relevant for the purposes of this regulation, the appellant was serving outside the United Kingdom on detached duty from a station in the United Kingdom, the appellant is to be treated for those purposes as if serving at that station at that time.

Notice of appeal

6.—(1) Subject to regulation 7, a police officer who wishes to appeal to a tribunal shall give notice of the appeal before the end of 10 working days beginning with the first working day after the day on which the officer is supplied with a written copy of the relevant decision.

(2) The notice of appeal shall be given in writing to the head of HR.

(3) The officer may request a transcript of the proceedings (or part of the proceedings) at the original hearing in the notice of appeal.

7.—(1) This regulation applies where a police officer who wishes to appeal to a tribunal wishes to give notice of the appeal after the end of the period mentioned in regulation 6(1).

(2) A police officer may give notice of the appeal within a reasonable time after the end of such period and the notice shall be accompanied by a statement of the reasons why it was not served within such period and the reasons for the officer's view that it has been served within a reasonable time after such period.

(3) Upon receipt, the head of HR shall supply a copy of the notice and the reasons to the chair who shall determine—

(a) whether it was reasonably practicable for the notice to be given within the period mentioned in regulation 6(1); and

(b) whether the notice has been given within a reasonable time after the end of such period.

(4) If the chair determines either that it was reasonably practicable for the notice to be given within such period or that the notice has not been given within a reasonable time after the end of such period, the appeal shall be dismissed.

(5) Where the appeal is not dismissed under paragraph (4), the appeal shall proceed and the chair shall give directions for the application of regulation 9 to the appeal.

The respondent

8.—(1) Where the appellant is a senior officer, the respondent shall be a person designated by the Ministry of Defence Police Committee.

(2) Where the appellant is any other police officer, the respondent shall be the chief constable.

Procedure on notice of appeal

9.—(1) As soon as reasonably practicable, the head of HR shall supply a copy of the notice of appeal—

(a) to the respondent; and

(b) where the appeal is a specified appeal, to the Commission or Ombudsman (as the case may be).

(2) As soon as reasonably practicable after receipt of a copy of the notice of appeal, and in any event before the end of 15 working days beginning with the first working day after the day of such receipt, the respondent shall supply to the head of HR—

(a) a copy of the relevant decision made at or following the original hearing provided under regulation 36 or 56 of the Conduct Regulations;

(b) any documents which were made available to the panel conducting the original hearing; and

(c) a copy of any transcript requested under regulation 6(3).

(3) A copy of any such transcript shall at the same time be given to the appellant.

(4) The appellant shall supply the following documents to the head of HR in accordance with paragraph (6)—

(a) a statement of the relevant decision and the grounds of appeal;

(b) any supporting documents;

(c) where the appellant is permitted to adduce witness evidence—

(i) a list of any proposed witnesses;

(ii) a witness statement from each proposed witness; and

(d) if the appellant consents to the appeal being determined without a hearing, notice in writing of that consent.

(5) For the purposes of paragraph (4)(c)—

(a) an appellant is only permitted to adduce witness evidence when relying on the ground of appeal set out in regulation 4(4)(b);

(b) a "proposed witness" is a person—

(i) whom the appellant wishes to call to give evidence at the hearing;

(ii) whose evidence was not and could not reasonably have been considered at the original hearing; and

(iii) whose evidence could have materially affected the relevant decision.

(6) The appellant shall supply the documents mentioned in paragraph (4) before the end of—

(a) 20 working days beginning with the first working day after the day of being supplied with a copy of the transcript under paragraph (3); or

(b) where no transcript has been requested under regulation 6(3), 35 working days beginning with the first working day after the day on which the appellant gave notice of the appeal to the head of HR.

(7) The head of HR shall give a copy of the documents supplied under paragraph (4) to the respondent as soon as practicable following receipt.

(8) The respondent shall, before the end of 20 working days beginning with the first working day after the day of receiving the documents given under paragraph (7), supply to the head of HR—

(a) a statement of the response to the appeal;

(b) any supporting documents;

(c) where the respondent is permitted to adduce witness evidence—

(i) a list of any proposed witnesses;

(ii) a witness statement from each proposed witness; and

(d) if the respondent consents to the appeal being determined without a hearing, notice of that consent.

(9) For the purposes of paragraph (8)(c)—

(a) a respondent is only permitted to adduce witness evidence where the appellant is relying on the ground of appeal set out in regulation 4(4)(b);

(b) a "proposed witness" is a person—

(i) whom the respondent wishes to call to give evidence at the hearing; and

(ii) whose evidence is relevant to all or part of the evidence on which the appellant is relying for the purposes of regulation 4(4)(b).

(10) The respondent shall at the same time as supplying the documents referred to in paragraph (8), give the appellant a copy of the documents referred to in paragraph (8)(a), (c) and (d), together with a list of the documents (if any) supplied under paragraph (8)(b) and a copy of any such document which the appellant has not already been supplied with.

(11) On receipt of the documents supplied under paragraph (8), the head of HR shall give to the chair a copy of the documents supplied under paragraphs (4) and (8).

Extensions of time limits

10.—(1) The appellant or the respondent may apply to the head of HR for an extension of a relevant period.

(2) Any such application shall set out the period of the required extension and the reasons for the application.

(3) As soon as practicable after receipt of an application under paragraph (1), the head of HR shall—

(a) give a copy of the application to the other party (being the appellant or the respondent as the case may be); and

(b) ask if the other party consents to the application.

(4) If the other party consents to the application, the relevant period shall be extended in accordance with the application and regulation 9 shall have effect as if for that period there were substituted the extended period.

(5) If the other party does not consent to the application, the application shall be referred to the chair who shall determine whether the relevant period should be extended and if so by how long; and where the chair extends the relevant period, regulation 9 shall have effect as if for that period there were substituted the extended period.

(6) In this regulation, "relevant period" means, in relation to an application by the appellant, the period referred to in regulation 9(6)(a) or (b) and, in relation to an application by the respondent, the period referred to in regulation 9(2) or (8).

Review of appeal

11.—(1) Upon receipt of the documents mentioned in regulation 9(4) and (8), the chair shall determine whether the appeal should be dismissed under paragraph (2).

(2) An appeal shall be dismissed under this paragraph if the chair considers that—

(a) the appeal has no real prospect of success; and

(b) there is no other compelling reason why the appeal should proceed.

(3) If the chair considers that the appeal should be dismissed under paragraph (2), before making the determination, the chair shall give the appellant and the respondent notice in writing of the chair's view together with the reasons for that view.

(4) The appellant and the respondent may make written representations in response to the chair before the end of 10 working days beginning with the first working day after the day of receipt of such notification; and the chair shall consider any such representations before making the determination.

(5) The chair shall give the appellant, the respondent and the head of HR notice in writing of the determination.

(6) Where the chair determines that the appeal should be dismissed under paragraph (2)—

(a) the notice under paragraph (5) shall include the reasons for the determination; and

(b) the appeal shall be dismissed.

Determination of an appeal

12.—(1) Where an appeal has not been dismissed under regulation 11, the chair shall determine whether the appeal should be dealt with at a hearing.

(2) The chair may determine that the appeal shall be determined without a hearing, but only if the appellant has so consented.

(3) Where the appeal is to be dealt with at a hearing, regulations 13 to 21 shall apply and the chair shall give the appellant and the respondent the chair's name and contact address.

Power to request disclosure of documents

13.—(1) At any time following the provision of the documents mentioned in regulation 9(4) and (8), the appellant or the respondent (the "requesting party") may apply to the chair for disclosure of any document by the other party which is relevant to the appeal.

(2) The chair may request the disclosure of any such document by the other party and where it is disclosed, a copy shall be given to the chair and to the requesting party.

(3) Where a party does not comply with a request to disclose under paragraph (2), that party shall give the chair and the requesting party the reasons for non-disclosure in writing.

Notice of the hearing

14.—(1) The chair shall cause the appellant and the respondent to be given written notice of the date, time and place of the hearing at least 20 working days, or such shorter period as may with the agreement of both parties be determined, before the date of the hearing.

(2) Where—

(a) the appellant is relying on the ground of appeal set out in regulation 4(4)(b); and

(b) either the appellant or the respondent (or both) have proposed witnesses under regulation 9,

the chair shall determine which, if any, witnesses shall give evidence at the hearing.

(3) No witness shall give evidence at the hearing unless the chair reasonably believes that it is necessary for the witness to do so, in which case the chair shall—

(a) where the witness is a police officer, cause that person to be ordered to attend the hearing; and

(b) in any other case, cause the witness to be given notice that attendance is necessary and of the date, time and place of the hearing.

(4) The chair may determine that any witnesses should be reimbursed for their reasonable expenses.

Legal and other representation

15.—(1) The appellant has the right to be represented at a hearing by a relevant lawyer or a police friend.

(2) Where the appellant is represented at the hearing by a relevant lawyer, the appellant may also be accompanied at the hearing by a police friend.

(3) If an appellant chooses not to be represented, the hearing may take place and the appeal may be determined without the appellant being represented.

(4) The respondent has the right to be represented at a hearing by a relevant lawyer or a police officer or an Agency staff member.

(5) Where a police friend is a police officer or an Agency staff member under the direction and control of the chief constable, the chief constable shall permit that police friend to use a reasonable amount of duty time for the purposes referred to in this regulation.

Procedure and oral evidence at hearing

16.—(1) Subject to these Regulations, the procedure at a hearing shall be determined by the tribunal.

(2) The tribunal may proceed with the hearing in the absence of either party, whether represented or not, if it appears to be just and proper to do so, and may adjourn it from time to time if it appears necessary to do so.

(3) Unless the tribunal determines otherwise, the evidence adduced by the appellant shall be given first.

(4) Witnesses giving evidence at the hearing may be subject to questioning and cross-questioning.

(5) Any question as to whether any evidence is admissible, or whether any question should or should not be put to a witness, shall be determined by the tribunal.

(6) A verbatim record of the evidence given at the hearing shall be taken; and the head of HR shall keep such record for a period of not less than two years from the date of the end of the hearing.

Statements in lieu of oral evidence

17.—(1) Subject to the provisions of this regulation, the tribunal may admit as evidence a witness statement of a proposed witness supplied under regulation 9(4) or (8), notwithstanding that the witness is not to be called as a witness at the hearing.

(2) Evidence shall not be admissible under this regulation if it would not have been admissible had it been given orally.

(3) For the purposes of this regulation, a written statement purporting to be made and signed by a person and witnessed by another person shall be presumed to have been made by that person unless the contrary be shown.

(4) Nothing in this regulation shall prejudice the admission of written evidence which would be admissible apart from the provisions of this regulation.

Hearing to be in private

18.—(1) Subject to paragraph (2) and regulations 19 and 20, the hearing shall be held in private.

(2) The tribunal may allow a person to attend all or part of the hearing as an observer for the purposes of training.

Attendance of complainant at hearing

19.—(1) This regulation shall apply in relation to a hearing in England and Wales where the relevant decision arose from a complaint which was certified as subject to special requirements under paragraph 19A(1) of Schedule 3 to the 2002 Act (assessment of seriousness of conduct)(**a**).

(2) The chair shall cause notice of the date, time and place of the hearing to be given to the complainant or any interested person at the same time as such notice is given to the appellant and the respondent under regulation 14(1).

(3) Subject to the provisions of this regulation and regulation 21, the complainant or any interested person (or both) may attend the hearing as an observer.

(4) Subject to the provisions of this regulation and regulation 21, a complainant or interested person may be accompanied by one other person, and if the complainant or interested person has a special need, by one further person to accommodate that need.

(5) Where—

(a) a complainant,

(b) an interested person, or

(c) any person accompanying a complainant or an interested person

is a proposed witness (of either party) and is to give evidence at the hearing, that witness and any person accompanying that witness shall not be allowed to attend the hearing before that evidence is given.

(6) The chair may put any questions to the appellant that the complainant or interested person requested to be put.

(7) For the purposes of this regulation, a person has a special need who, in the opinion of the chair, has a disability or learning difficulty, or does not have sufficient knowledge of English, as a result of which that person is unlikely to be able to fully participate in or understand the hearing.

Attendance of the Commission or Ombudsman (as the case may be) at hearing

20.—(1) This regulation shall apply to a specified appeal.

(2) The chair shall cause notice of the date, time and place of the hearing to be given to the Commission or Ombudsman (as the case may be) at the same time as such notice is given to the appellant and the respondent under regulation 14(1).

(3) The Commission or Ombudsman (as the case may be) may attend the hearing as an observer.

Exclusion from hearing

21.—(1) On the application of the appellant or the respondent or otherwise, the chair may require any observer to withdraw from all or any part of the hearing.

(**a**) 2002 c.30. Paragraph 19A was inserted into the 2002 Act by paragraph 5 of Schedule 23 to the Criminal Justice and Immigration Act 2008 (c.4).

(2) The chair may impose conditions relating to the attendance of an observer (or any person accompanying a complainant or interested person) at the hearing in order to facilitate the proper conduct of the hearing.

Tribunal's determination

22.—(1) The tribunal shall determine whether the ground or grounds of appeal on which the appellant relies have been made out.

(2) The determination of the tribunal shall be based on a simple majority but no indication shall be given as to whether it was taken unanimously or by a majority.

(3) Where there is an equality of voting among the members of the tribunal, the chair shall have a second or casting vote.

(4) The chair shall prepare a written statement of the tribunal's determination of the appeal and of the reasons for the decision.

(5) As soon as reasonably practicable after the determination of the appeal the chair shall cause the appellant, the respondent and the head of HR to be given a copy of such statement; but, in any event, the appellant shall be given written notice of the decision of the tribunal before the end of 3 working days beginning with the first working day after the day on which the appeal is determined.

(6) Where the relevant decision arose from a complaint in England and Wales which was certified as subject to special requirements under paragraph 19A(1) of Schedule 3 to the 2002 Act (assessment of seriousness of conduct) the head of HR shall notify the complainant and any interested party of the decision of the tribunal.

(7) Where the appeal is a specified appeal, the head of HR shall notify the Commission or Ombudsman (as the case may be) of the decision of the tribunal.

Orders and effect of orders

23.—(1) On the determination of an appeal, a tribunal may make an order dealing with the appellant in any way in which the appellant could have been dealt with by the person who made the decision appealed against.

(2) Where the tribunal makes an order under paragraph (1), the order shall take effect—

(a) by way of substitution for the decision appealed against; and

(b) as from the date of that decision.

(3) Where the effect of the order made by the tribunal is to reinstate the appellant in the force or in rank, the appellant shall, for the purpose of reckoning service for pension and, to such extent (if any) as may be determined by the order, for the purpose of pay, be deemed to have served in the force or in rank continuously from the date of the original decision to the date of reinstatement.

(4) Where the effect of the order made by the tribunal is to reinstate the appellant in the force and the appellant was suspended for a period immediately preceding the date of the original decision or any subsequent decision, the order shall deal with the suspension.

Remuneration and expenses

24. Members of a tribunal shall be paid such remuneration and reimbursed for such expenses as the Secretary of State may determine.

Costs

25.—(1) An appellant shall pay the whole of his or her own costs unless the tribunal directs that the whole or any part of them are to be met out of Ministry of Defence funds.

(2) Subject to paragraph (1), all the costs and expenses of an appeal under these regulations, including the costs of the respondent, any witness and any remuneration or expenses paid by virtue of regulation 24, are to be met out of Ministry of Defence funds.

Name
Parliamentary Under Secretary of State
Ministry of Defence

Address
Date

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations set out the circumstances in which a police officer in the Ministry of Defence Police may appeal to a police appeals tribunal. They also set out the procedures governing such an appeal.

Regulation 2 deals with revocations and transitional provisions. Regulation 3 deals with interpretation and provides that any expression which is also used in the Ministry of Defence Police (Conduct) Regulations 2009 shall have the same meaning as in those Regulations.

A police officer may appeal to a police appeals tribunal following proceedings under the Ministry of Defence Police (Conduct) Regulations 2009 in the circumstances set out in regulation 4. That regulation sets out the matters that may be appealed and the grounds of appeal.

Regulation 5 makes provision for the appointment and composition of police appeals tribunals.

Regulations 6 and 7 make provision for the giving of a notice of appeal. Regulation 9 sets out the procedure on receipt of this notice, including the provision of documents. Under regulation 10, time periods under regulation 9 may be extended on application.

Under regulation 11, the chair must review each appeal that is brought and consider whether it should be dismissed in accordance with regulation 11(2). If the chair is of the view that it should be dismissed, the parties must be given an opportunity to make written representations before the chair makes the final decision.

Under regulation 12, an appeal may be determined with or without a hearing. However, it can only be determined without a hearing if the appellant has consented to this.

Regulations 13 to 21 apply where an appeal is to be dealt with at a hearing and set out a power for the chair to request the disclosure of documents, the procedure and entitlement to legal representation, and provide for evidence and for the hearing to be in private, subject to regulations 17 to 20.

Regulation 22 deals with the determination of the appeal by the tribunal and the provision of a written statement of the determination.

Regulation 23 deals with the order which the tribunal may make and the effect of such an order.

These Regulations were laid before Parliament in draft as they are the first Regulations made under section 4A of the Ministry of Defence Police Act 1987 after the commencement of paragraph 16 of Schedule 22 to the Criminal Justice and Immigration Act 2008 (see section 4A(6) of the Ministry of Defence Police Act 1987).

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