STATUTORY INSTRUMENTS

1965 No. 618

POLICE

ENGLAND AND WALES

The Police (Appeals) Rules 1965

Made - - - -	*25th March* 1965
Laid before Parliament	*31st March* 1965
Coming into Operation	*1st April* 1965

In exercise of the powers conferred on me by paragraph 5 of Schedule 5 to the Police Act 1964(a), I hereby make the following Rules:—

Notice of appeal

1.—(1) An appeal under section 37 of the Police Act 1964 shall be instituted by the appellant giving a notice of appeal, in the form set out in the Schedule to these Rules, or a form to the like effect, and annexing thereto the documents specified in the said notice.

(2) The notice of appeal shall be submitted to the Secretary of State within twenty-one days from the date on which the appellant was notified in writing of the decision against which he desires to appeal:

Provided that where the Secretary of State is satisfied, on the application of the appellant, that by reason of the special circumstances of the case it is just and right so to do, he may extend the period within which a notice of appeal may be submitted until a date specified by him.

(3) The appellant shall, within the said period of twenty-one days or by the date fixed by the Secretary of State, as the case may be, send to the respondent a copy of the notice of appeal and of the documents annexed thereto.

(4) The appellant may withdraw his appeal by notice in writing submitted to the Secretary of State at any time before the appeal is decided by the Secretary of State or, where he has appointed a tribunal, before the inquiry opens.

Statement by respondent

2.—(1) The respondent, when so required by the Secretary of State, shall send him a written statement as to whether or not he desires to oppose the appeal and, where he desires to oppose it, as to—

(*a*) the facts and contentions on which he relies and the documentary or other evidence, if any, which he desires to submit;

(*b*) whether, in the event of an inquiry being held, he desires to appear by a legal or other representative, and

(*c*) whether, in the event of an inquiry being held, it would be an inquiry to which Rule 8 applies and, if so, the name and address of the complainant within the meaning of that Rule.

(2) The respondent, if so required by the Secretary of State, shall also send him such number of copies as he may require of—

(*a*) the statement referred to in paragraph (1), and

(a) 1964 c. 48.

(*b*) such papers, reports, records and other documents as the Secretary of State may specify.

(3) The respondent shall send to the appellant a copy of the statement referred to in paragraph (1) and of each document, a copy of which has been sent to the Secretary of State in accordance with paragraph (2)(*b*).

Documents to be sent to the tribunal

3. Where the Secretary of State appoints a tribunal to hold an inquiry he shall send to each member of the tribunal—

(*a*) a copy of the notice of appeal and of each document annexed thereto, and

(*b*) a copy of the statement referred to in Rule 2(1) and of each document, a copy of which has been sent to the Secretary of State in accordance with Rule 2(2)(*b*).

Procedure at inquiry

4.—(1) Where the Secretary of State appoints a tribunal, the tribunal (or, where it consists of two or more persons, the member thereof appointed by the Secretary of State to preside at the inquiry) shall fix the day for the opening of the inquiry and shall cause notice thereof to be sent to the appellant, the respondent and the Secretary of State, not less than seven days before the day in question.

(2) It shall be within the discretion of the tribunal to proceed with the inquiry in the absence of either party, whether represented or not, if it appears to be just and proper so to do, and to adjourn the inquiry from time to time as may appear necessary for the due hearing of the case.

(3) The tribunal may, at any time before the conclusion of the inquiry, allow the notice of appeal or any documents annexed thereto, the respondent's statement or any papers, reports, records or other documents, copies of which have been sent to the Secretary of State in accordance with Rule 2(2)(*b*), to be amended as it thinks just.

(4) Subject to these Rules, the procedure at an inquiry shall be determined by the tribunal.

Representation at inquiry

5.—(1) The appellant shall have the right to appear at the inquiry in person, by a serving member of a police force or by counsel or a solicitor.

(2) The respondent shall have the right to appear at the inquiry by a serving member of a police force, by the clerk or other officer of the relevant police authority or by counsel or a solicitor.

(3) In this Rule the expression "relevant police authority" means the police authority maintaining the police force of which the respondent is a member or, where the respondent is a police authority, that authority.

Inquiry to be in private

6.—(1) Unless the Secretary of State otherwise directs, the inquiry shall be held in private:

Provided that it shall be within the discretion of the tribunal to allow such person or persons as it considers desirable to attend the whole or such part of the inquiry as it may think fit.

(2) Notwithstanding that the Secretary of State has directed that an inquiry should be held in public or that the tribunal has allowed a person to attend the inquiry, where it appears to the tribunal that a witness may

in giving evidence disclose information which, in the public interest, ought not to be disclosed publicly, the tribunal shall require any member of the public present to withdraw while that evidence is given.

Evidence at inquiry

7.—(1) Unless the tribunal otherwise determines, the inquiry shall be conducted by way of rehearing the charge and the evidence in support thereof shall be given first.

(2) All evidence given at the inquiry shall be given on oath.

(3) All witnesses giving evidence at the inquiry shall be subject to examination and cross-examination.

(4) It shall be within the discretion of the tribunal to determine any question as to whether any evidence tendered shall be admitted or whether any question shall or shall not be put to a witness.

(5) A verbatim record of the evidence given at the inquiry shall be taken and a transcription of the record shall be made.

Attendance of complainant at inquiry

8.—(1) This Rule shall apply in relation to an inquiry where the facts alleged in the charge were alleged in a complaint received from a member of the public and the appeal is not against punishment only.

(2) Notice of the opening of the inquiry shall be sent to the complainant and Rule 4(1) shall apply as if the reference therein to the respondent included a reference to the complainant.

(3) Notwithstanding anything in Rule 6(1) but subject to paragraph (5), the tribunal shall allow the complainant to attend the inquiry while witnesses are being examined, or cross-examined, on the facts alleged in the charge and, if the tribunal considers it appropriate so to do on account of the age of the complainant, or otherwise, shall allow him to be accompanied by a personal friend or relative who is not to be called as a witness at the inquiry:

Provided that—

(*a*) where the complainant is to be called as a witness at the inquiry, he and any person allowed to accompany him shall not be allowed to attend before he gives his evidence, and

(*b*) where it appears to the tribunal that a witness may in giving evidence disclose information which, in the public interest, ought not to be disclosed to a member of the public, it shall require the complainant and any person allowed to accompany him to withdraw while that evidence is given.

(4) Where the appellant gives evidence, then, after the person representing the respondent has had an opportunity of cross-examining him, the tribunal shall put to him any questions which the complainant requests should be so put and might have been properly so put by way of cross-examination and, at its discretion, may allow the complainant himself to put such questions to the accused.

(5) Subject as aforesaid, the complainant and any person allowed to accompany him shall neither intervene in, nor interrupt the inquiry; and if he or such a person should behave in a disorderly or abusive manner, or otherwise misconduct himself, the tribunal may exclude him from the remainder of the inquiry.

(6) In this Rule a reference to the complainant is a reference to the originator of the complaint notwithstanding that it was received from or through some other person or body.

Report of tribunal

9. The tribunal shall draw up and submit to the Secretary of State, as soon as may be after the termination of the inquiry, a report, in triplicate, of its findings, setting out—

(*a*) a statement of the facts admitted or found to be proved, so far as material to the case;

(*b*) a statement as to the charge or charges found to be proved;

(*c*) a statement as to whether the punishment was, in its opinion, just and proper having regard to all the circumstances before it and, if not, whether any and if so what, punishment should, in its opinion, be substituted therefor;

(*d*) where the appeal is against punishment by dismissal, by being required to resign or by reduction in rank, a recommendation as to the extent (if any) that the appellant, if he were reinstated in the force or in his rank, should be deemed, for the purposes of pay, to have served in the force or in that rank, as the case may be, continuously from the date of the decision appealed from to the date of his reinstatement and, if he was suspended for a period immediately preceding the date of the decision, as to the provision dealing with the suspension which should be included in the order;

(*e*) a recommendation as to whether or not the appellant should be required to pay the whole or a specified part of his own costs of the appeal;

(*f*) any other matter arising out of the appeal which it desires to bring to the notice of the Secretary of State;

and shall send therewith to the Secretary of State the verbatim record of the evidence given at the inquiry, the transcription thereof, the documents sent to the tribunal in accordance with Rule 3 and all other documents produced at the inquiry or otherwise furnished in connection therewith.

Further investigation by tribunal

10. Where the Secretary of State remits a case for further investigation by a tribunal, in accordance with paragraph 3(4) of Schedule 5 to the Police Act 1964, these Rules shall apply in relation to that further investigation, subject to any necessary modifications, as they apply in relation to an inquiry.

Service of documents

11. Where any notice or other document is required by these Rules to be submitted or sent by or to the Secretary of State or any other person or authority, it shall be a sufficient compliance with these Rules if such notice or other document is sent, by registered letter post or the recorded delivery service, within such time, if any, as is prescribed by these Rules, in a letter directed to the person or authority for whom it is intended at his or its usual office or other ordinary address or, in the case of a notice or other document intended for the Secretary of State, to the Secretary of State at the Home Office in London.

Determination of questions

12. If any question arises as to the proper compliance with any provision of these Rules it shall be determined by the Secretary of State whose decision shall be final.

Interpretation

13.—(1) In these Rules the following expressions have the meanings hereby respectively assigned to them, that is to say:—

"appellant" and "respondent" have the same meaning as in Schedule 5 to the Police Act 1964;

"an inquiry" means an inquiry under paragraph 3 of the said Schedule 5;

"the tribunal" means the person or persons appointed to hold an inquiry.

(2) In these Rules, except where the context otherwise requires, any reference to a Rule shall be construed as a reference to a Rule contained in these Rules and any reference in a Rule to a paragraph shall be construed as a reference to a paragraph of that Rule.

(3) The Interpretation Act 1889(a) shall apply to the interpretation of these Rules as it applies to the interpretation of an Act of Parliament.

Revocations

14. The Police (Appeals) Rules 1943(b) and the Police (Appeals) Rules 1944(c) are hereby revoked except in relation to any punishment imposed before 1st April 1965.

Operation and application

15. These Rules shall come into operation on 1st April 1965, but the provisions thereof shall not apply in relation to any punishment imposed before that date.

Citation

16. These Rules may be cited as the Police (Appeals) Rules 1965.

Frank Soskice,
One of Her Majesty's Principal Secretaries of State.

Home Office,
Whitehall.

25th March 1965.

SCHEDULE

Form of Notice of Appeal to the Secretary of State

I, [*here insert name and number*]
on the ..... day of ....., 19 ....., while holding the rank of ..... in the police force was found to have committed the following disciplinary offence(s), that is to say [*here insert charge or charges found to be proved*] ..... and was punished therefor [*here insert particulars of punishment*] .....

I was notified in writing of the decision on .....

I desire to appeal against the said [finding and punishment] [finding].

(a) 52 & 53 Vict. c. 63. (b) S.R. & O. 1943/473 (Rev. XVIII, p. 154: 1943 I, p. 818).
(c) S.R. & O. 1944/913 (Rev. XVIII, p. 154: 1944 I, p. 826).

I [desire] [do not desire] to submit additional evidence not taken into consideration at the hearing of the charge[s] against me.

I annex—

(1) a concise statement (marked A) of the grounds on which I desire to appeal;

(2) a list (marked B) of the documents, if any (other than documents produced at the hearing) which I desire to submit;

(3) a list (marked C) of the names and addresses of the witnesses I desire to call, with a concise statement of the material facts which each such witness will prove.

At the date on which I was so punished I was in receipt of pay at the rate of £..... a year.

Before being so punished I was suspended on the ..... day of ..... 19 ....., at which date I was in receipt of pay at the rate of £..... a year.

I declare that a copy of this notice of appeal and of each document annexed thereto has been sent to the [chief constable] [police authority] whose decision is the subject of this appeal.

Signature .....

Address .....

.....

Date ..... 19 .....

EXPLANATORY NOTE

(This Note is not part of the Rules, but is intended to indicate their general purport.)

These Rules consolidate with amendments the Police (Appeals) Rules 1943 and the Police (Appeals) Rules 1944. They come into operation on the same date as the provisions of the Police Act 1964 relating to discipline, that is to say, 1st April 1965, and account is taken of those provisions.

The principal changes relate to procedure where a tribunal is appointed to hold an inquiry in connection with a disciplinary appeal and are referred to below.

Under Rule 5(1) the appellant need no longer obtain the consent of the tribunal if he wishes to be legally represented.

Rule 8 provides that where the charge, which is the subject of the appeal, arose out of a complaint made by a member of the public the inquiry may be attended by the complainant.