STATUTORY INSTRUMENTS

1977 No. 759

POLICE

The Police (Appeals) Rules 1977

Made - - - -	*28th April* 1977
Laid before Parliament	*6th May* 1977
Coming into Operation	*1st June* 1977

In exercise of the powers conferred on me by paragraph 5 of Schedule 5 to the Police Act 1964(a), as amended by section 12(6) of the Police Act 1976(b), I hereby make the following Rules:—

Citation and commencement

1. These Rules may be cited as the Police (Appeals) Rules 1977 and shall come into operation on 1st June 1977.

Revocations and transitional provisions

2.—(1) Subject to paragraph (2), the Police (Appeals) Rules 1965(c) and the Police (Appeals) (Amendment) Rules 1965(d) are hereby revoked.

(2) In relation to an appeal against a decision of which the appellant was notified before 1st June 1977—

(*a*) nothing in these Rules shall apply, and

(*b*) the Rules revoked by paragraph (1) shall continue to have effect.

(3) Where the facts alleged in the charge as respects which an appeal is brought were alleged in a complaint received by the chief officer of police from a member of the public in respect of the appellant's conduct before 1st June 1977, Rule 14 shall apply in relation to that appeal notwithstanding that the charge was not in respect of a complaints matter as defined in Rule 3(1).

Interpretation

3.—(1) In these Rules, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them, that is to say:—

"the Act" means the Police Act 1964, as amended by the Police Act 1976;

"appeal tribunal" means the person or persons appointed under paragraph 3(1) of Schedule 5 to the Act;

"appellant" and "respondent" have the same meanings as in the said Schedule 5;

(a) 1964 c. 48.
(b) 1976 c. 46.
(c) S.I. 1965/618 (1965 I, p. 1922).
(d) S.I. 1965/1283 (1965 II, p. 3646).

"chairman", in relation to an appeal tribunal, means the member thereof whom the Secretary of State has appointed to act as such except that, where the tribunal consists of a single person, it means that person;

"complaints matter" means a matter or matters referred to in subsection (1) of section 3 of the Police Act 1976**(a)** in respect whereof the provisions of that section have effect or, in relation to a senior officer, a matter or matters complained of in a complaint against him received from a member of the public;

"hearing" has the meaning assigned thereto by Rule 9(1);

"inquiry" means an inquiry held in pursuance of paragraph 3(1) of Schedule 5 to the Act;

"original hearing" means the hearing at the conclusion of which the appellant was found guilty of the charge as respects which the appeal is brought;

"senior officer" means a chief constable or other senior officer within the meaning of the Police (Discipline) (Senior Officers) Regulations 1977**(b)**;

"supporting statement" has the meaning assigned thereto by Rule 4(3) and, accordingly, means such a written statement as is mentioned in paragraphs 7, 8 and 9 of the notice of appeal set out in the Schedule to these Rules.

(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**(c)** shall apply to the interpretation of these Rules as it applies to the interpretation of an Act of Parliament.

Notice of appeal

4.—(1) An appeal under section 37 of the Act shall be instituted by the appellant giving the Secretary of State written notice of appeal, in the form set out in the Schedule to these Rules or a form to the like effect with, where the appellant is a member of the metropolitan police force or a senior officer, such modifications as the case may require.

(2) The notice of appeal shall be given within the period of 22 days beginning with the day on which the appellant was notified in writing of the relevant decision.

In this and the next following paragraph the expression "relevant decision" means (in the case of an appeal against both finding and punishment or against punishment only) the decision as to punishment which is subject to appeal except that, in the case of a member of the metropolitan police force, where by virtue of subsection (4) of section 37 of the Act no appeal thereunder lies against a decision unless it has been affirmed or varied on appeal under paragraph 9 of Schedule 4 to the Police (Discipline) Regulations 1977**(d)**, the said expression means the decision on such appeal to affirm or vary the said punishment.

(3) If the appellant does not annex to the notice of appeal all the written statements mentioned in paragraphs 7, 8 and 9 thereof (hereinafter referred to as "the supporting statements"), he shall supply the Secretary of State with the

(a) 1976 c. 46.
(b) S.I. 1977/581 (1977 I, p. 1862).
(c) 1889 c. 63.
(d) S.I. 1977/580 (1977 I, p. 1840).

statements not annexed to the notice of appeal within the period of 50 days beginning with the day on which he was notified in writing of the relevant decision; and, if he fails to do so, the Secretary of State shall be entitled to treat the notice of appeal as having been withdrawn and no further action in connection with the appeal shall be taken.

(4) The appellant shall send copies of the notice of appeal and of the supporting statements—

(*a*) within the period within which the notice falls to be given under paragraph (2) or, as the case may be, within which the statements fall to be supplied under paragraph (3), to the chief officer of the police force to which he belongs, and

(*b*) if and when so required by the Secretary of State, to such other person as is the respondent to the appeal by virtue of a direction given under paragraph 2(2) of Schedule 5 to the Act,

except that, where the appellant is a senior officer, sub-paragraph (*b*) above shall not apply and, save in the case of a member of the metropolitan police force, sub-paragraph (*a*) shall have effect as if the reference therein to the chief officer were a reference to the police authority.

(5) 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 either or both of the periods mentioned in paragraphs (2) and (3) and, in such case, this Rule shall have effect as if for the period in question there were substituted such extended period as he may specify.

Statement by respondent

5.—(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 appeal tribunal being appointed and evidence heard, he desires to appear by a legal or other representative, and

(*c*) whether (unless the appeal is against punishment only), in such event, the hearing would be one to which Rule 14 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

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

(3) The respondent shall send to the appellant—

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

(*b*) a list of the documents copies of which have been sent to the Secretary of State in accordance with paragraph (2)(*b*) together with copies of all such documents save in so far as they have previously been given to the appellant.

Documents to be sent to appeal tribunal

6.—(1) Where the Secretary of State appoints an appeal tribunal to hold an inquiry he shall send to each member thereof—

(*a*) copies of the notice of appeal and of the supporting statements, and

(*b*) subject to paragraph (2), a copy of the respondent's statement referred to in Rule 5(1) and of each document a copy of which has been sent to the Secretary of State in accordance with Rule 5(2)(*b*).

(2) Except where the appeal is against punishment only, unless and until the Secretary of State is satisfied that the inquiry will not proceed by way of a rehearing, he shall, so far as is practicable, withhold so much of the statement and documents mentioned in paragraph (1)(*b*) as appear to him to relate to the appellant's general character and record of police service.

Withdrawal and amendment of notice of appeal etc.

7.—(1) At any time before an appeal is decided by the Secretary of State he may, on written application in that behalf, allow the appellant to withdraw his notice of appeal and, accordingly, where he so allows no further action in connection with the appeal shall be taken.

(2) Rule 4(4) shall apply in relation to a written application made for the purposes of paragraph (1) as it applies in relation to a notice of appeal and where the Secretary of State has appointed an appeal tribunal to hold an inquiry and it has not, to the knowledge of the appellant, reported to the Secretary of State, the appellant shall also send to the chairman of the tribunal a copy of the written application.

(3) Subject to paragraph (4), at any time before an appeal is decided by the Secretary of State he may, in his discretion and subject to such conditions, if any, as he thinks fit, allow—

(*a*) the appellant to amend his notice of appeal or any of the supporting statements;

(*b*) the respondent to amend his statement under Rule 5(1) or the documentary material sent to the Secretary of State in accordance with Rule 5(2)(*b*).

(4) Where the Secretary of State has appointed an appeal tribunal to hold an inquiry and it has not reported to him, the powers conferred by paragraph (3) shall not be exercisable by him but shall be exercisable by the chairman of the tribunal.

Form of inquiry

8.—(1) This Rule shall apply where the Secretary of State appoints an appeal tribunal to hold an inquiry.

(2) If the Secretary of State so determines as respects a particular charge, then, as respects that charge, the tribunal shall take evidence and, for that purpose, hold a hearing.

(3) As respects any other charge, the tribunal shall take evidence and, for that purpose, hold a hearing, unless—

(*a*) it seems likely to the chairman of the tribunal that the inquiry can properly be carried out without taking evidence, and

(*b*) subject to paragraph (4), after considering the matter and consulting the other members of the tribunal, the chairman determines that it shall be so carried out.

(4) It shall not be determined under paragraph (3)(*b*) to conduct an inquiry without taking evidence unless both the appellant and the respondent have been afforded an opportunity to make written or, if either so requests, oral representations in the matter to the tribunal and any such representations have been considered; and, subject to any necessary modifications, the provisions of Rules 9, 10 and 11 shall apply in relation to the hearing of any such oral representations as they apply in relation to a hearing for the purpose of taking evidence.

(5) Where as respects a particular charge the appeal is against both finding and punishment, then, as respects that charge, a hearing in pursuance of paragraph (2) or (3) shall be by way of a rehearing of that charge.

Procedure at hearing

9.—(1) This Rule and Rules 10 to 14 shall apply where the Secretary of State appoints an appeal tribunal to hold an inquiry and, in pursuance of Rule 8(2) or (3) a hearing falls to be held (hereinafter referred to as "the hearing").

(2) After consulting the chairman of the tribunal, the Secretary of State shall fix the day for the opening of the hearing and shall cause notice thereof to be sent to the appellant and the respondent not less than 28 days before the day in question so, however, that with the agreement of the parties shorter notice may be given.

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

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

Representation at hearing

10.—(1) The appellant shall have the right to appear at the hearing 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 hearing by a serving member of a police force, by counsel or a solicitor or (except where the respondent is the commissioner of police of the metropolis) by the clerk or other officer of the relevant police authority.

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

Hearing to be in private

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

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

(2) Notwithstanding that the Secretary of State has directed that a hearing should be held in public or that the appeal tribunal has allowed a person to attend the hearing, 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 hearing

12.—(1) Unless the tribunal otherwise determines, the evidence adduced by the respondent shall be given first.

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

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

(4) 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 appeal tribunal.

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

Statements in lieu of oral evidence

13.—(1) Subject to the provisions of this Rule, the appeal tribunal may admit evidence by way of a written statement made by a person, notwithstanding that he may not be called as a witness, so, however, that evidence shall not be admissible hereunder if it would not have been admissible had it been given orally.

(2) For the purposes hereof, 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.

(3) If either the appellant or the respondent (in this Rule referred to as "the parties") proposes to adduce written evidence in pursuance of this Rule at a hearing, he shall give the other party a copy of the statement at least 21 days before the date of that hearing and invite that party to agree or object, in writing, to the admission of the statement in evidence without the maker thereof being called as a witness and being available for cross-examination and, if that party within 14 days from the receipt by him of the copy of the statement has so objected, the statement shall only be admitted in evidence if the maker thereof is called and is available as aforesaid:

Provided that if the parties in writing so agree in the case of a particular statement, this paragraph shall have effect in relation to that statement as though—

(*a*) the reference to a period of 21 days was a reference to such shorter period as they may agree;

(*b*) the reference to a period of 14 days were a reference to such shorter period, expiring before the date of the hearing, as they may agree.

(4) Where, notwithstanding that the other party has not so objected and a written statement has been admitted in evidence without the maker thereof being called and being available as aforesaid, the appeal tribunal is of the opinion that oral evidence should be given, it may request that the maker be called as a witness and, in such case, unless the maker gives oral evidence, the tribunal shall be entitled to disregard the written evidence.

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

Attendance of complainant at hearing

14.—(1) This Rule shall apply in relation to a hearing where the charge as respects which the appeal is brought is in respect of a complaints matter and the appeal is not against punishment only.

(2) The Secretary of State shall cause notice of the opening of the hearing to be sent to the complainant, at the same time as such notice is sent to the respondent in pursuance of Rule 9(2).

(3) Notwithstanding anything in Rule 11(1) but subject to paragraph (5), the appeal tribunal shall allow the complainant to attend the hearing 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 hearing 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 appeal 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 chairman of 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 his 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 hearing; and if he or such a person should behave in a disorderly or abusive manner, or otherwise misconduct himself the chairman of the tribunal may exclude him from the remainder of the hearing.

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

Report of appeal tribunal

15.—(1) The appeal tribunal shall draw up and submit to the Secretary of State, as soon as may be after the completion of the inquiry, a report, in triplicate, of its findings, setting out—

(*a*) a statement of the facts (so far as material to the case) found to be admitted or proved, either in the course of a hearing or the consideration by the tribunal of the documents sent to it in accordance with Rule 6;

(*b*) except where the appeal is against punishment only, a statement as to the charge or charges so 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*) its observations on any matter with which the Secretary of State required it to deal under paragraph 3(1A) of Schedule 5 to the Act and on any other matter which it desires to bring to his notice.

(2) The appeal tribunal shall send to the Secretary of State, with its report—

(*a*) the documents sent to it in accordance with Rule 6 and any other documents furnished in connection with the inquiry, and

(*b*) where there has been a hearing, the verbatim record of the evidence given at the hearing, the transcription thereof and (without prejudice to sub-paragraph (*a*), above) the documents, if any, produced at the hearing.

Further investigation by appeal tribunal

16. Where the Secretary of State remits a case for further investigation by an appeal tribunal, in accordance with paragraph 3(4) of Schedule 5 to the Act, 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

17. 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

18. 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.

Merlyn Rees,
One of Her Majesty's Principal
Secretaries of State.

Home Office,
Whitehall.

28th April 1977.

SCHEDULE

Form of Notice of Appeal to the Secretary of State

1. I, ... (*name and number*) was, on ..... (*insert date*) and while holding the rank of ..... in the ..... police force, found to have committed the disciplinary offence[s] mentioned in the first column below with which I had been charged and was punished therefor as mentioned in the second column below:—

Disciplinary offence found proved	Punishment therefor
(1)	.....
(2)	.....
(3)	.....

2. The hearing of the charge[s] was conducted, and the finding[s] reached, by [the chief constable of the ..... police force] [a tribunal within the meaning of section 4 of the Police Act 1976 of which the chairman was the chief constable of the ..... police force].

3. Punishment was imposed by [the said chief constable] [the chief constable of the ..... police force].

4. I was notified in writing of the said punishment[s] on ..... (*insert date*).

5. I desire to appeal against [the said finding[s] and punishment[s]] [the said punishment[s] but not against the said finding[s]].

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

7. I [annex] [do not annex] a concise statement (marked A) of the grounds on which I desire to appeal.

8. I [annex] [do not annex] a statement (marked B) comprising either a list of the documents which I desire to submit in support of the appeal (other than documents produced at the original hearing) or a statement that I do not wish to submit any such documents.

9. I [annex] [do not annex] a statement (marked C) comprising either a list of the names and addresses of the witnesses I desire to call in support of my appeal and a concise statement of the facts which each witness will prove or a statement that I do not desire to call any witnesses.

10. I understand that any such statement as is referred to in paragraph 7, 8 or 9 which is not annexed must be supplied to the Secretary of State within the period of 50 days beginning with the date mentioned in paragraph 4.

11. At the date on which punishment was imposed I was in receipt of pay at the rate of £..... a year.

12. [I was suspended on ..... (*insert date*) and was still suspended immediately before punishment was imposed.]

13. I declare that a copy of this notice of appeal and of any statement annexed thereto has been sent to the chief constable of my police force.

Signature .....

Address .....

.....

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

EXPLANATORY NOTE

(*This Note is not part of the Rules.*)

These Rules consolidate, with amendments, the Police (Appeals) Rules 1965 (as amended). The principal changes are described below.

Certain documents, including a statement of the grounds on which the appeal is brought, need not be annexed to the notice of appeal but may be supplied subsequently (Rule 4(3) and the Schedule).

Where there is to be a rehearing in the case of an appeal against both finding and punishment, there is to be withheld from the appeal tribunal so much of the documentary material submitted in advance by the respondent as relates to the appellant's general character and record of police service (Rule 6(2)).

Provision is made as respects the determination of the question whether or not an appeal tribunal should take evidence and, for that purpose, hold a hearing (Rule 8).

With the agreement of the other party, either the appellant or the respondent may adduce evidence by way of a written statement (Rule 13).

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