STATUTORY INSTRUMENTS

1964 No. 1216 (S. 81)

POLICE

The Police (Appeals) (Scotland) Rules 1964

Made - - - -	*28th July* 1964
Laid before Parliament	*31st July* 1964
Coming into Operation	*1st August* 1964

In exercise of the powers conferred on me by section 11c of, and paragraph 5 of Schedule 1A to, the Police (Scotland) Act 1956(a) as amended by the Police Act 1964(b) I hereby make the following rules:—

1.—(1) These rules may be cited as the Police (Appeals) (Scotland) Rules 1964 and shall come into operation on 1st August 1964.

(2) In these rules, which shall apply to all appeals by members of a police force in Scotland under section 11c of the Police (Scotland) Act 1956, the expressions " appellant " and " respondent " shall have the same meaning as in the Act.

(3) The Interpretation Act 1889(c) shall apply for the interpretation of these rules as it applies for the interpretation of an Act of Parliament.

2. Notice of Appeal to the Secretary of State shall be given in the form set out in the Schedule to these rules.

3. The Notice of Appeal shall be sent to the Secretary of State within ten days from the date on which the appellant received notification 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 that an appeal should be entertained after the expiration of the period aforesaid, the Notice of Appeal shall be sent to the Secretary of State by such date as he may fix.

4. The Notice of Appeal sent to the Secretary of State shall be accompanied by (*a*) a statement setting out fully on what grounds the appeal is made and (*b*) any documentary evidence which the appellant may desire to submit. A copy of the Notice of Appeal, of the relative statement and of any documentary evidence submitted shall be sent to the respondent at the same time.

5. The respondent shall, within ten days of the date of receipt of the copy of the Notice of Appeal and relative statement and documentary evidence referred to in Rule 4 of these rules, send to the Secretary of State a statement,

(a) 4 & 5 Eliz. 2. c. 26. (b) 1964 c. 48. (c) 52 & 53 Vict. c. 63.

signed and dated, saying whether the appeal is opposed, and, if so, setting out fully on what grounds. The statement shall contain any representations which the respondent may desire to submit with regard to the information furnished by the appellant. It shall also contain a list of any documents which may accompany it in terms of Rule 6 of these rules and an intimation whether, in the event of an inquiry being held, the respondent desires to appear in person or to be represented by a legal or other representative. A copy of the statement and of any documents which may accompany it of which the appellant does not already possess a copy shall be sent to the appellant, and the statement shall contain a declaration that a full and true copy of the statement and of such accompanying documents has been sent to the appellant.

6. The statement sent by the respondent to the Secretary of State shall be accompanied by (*a*) any documentary evidence which the respondent may desire to submit (*b*) a certified copy of the personal record of the appellant as provided for in the Police (Scotland) Regulations 1956(**a**), as amended by the Police (Scotland) Amendment Regulations 1964(**b**), and if the appellant was punished for an offence against the Discipline Code, a certified copy of the discipline form as provided for in the Police (Discipline) (Scotland) Regulations 1952(**c**).

7. Unless the Secretary of State decides that an inquiry shall not be held, he shall send to the Sheriff the Notice of Appeal, the statements by the appellant and respondent and the other documents referred to in Rules 4 and 6 of these rules, and the appellant and respondent shall be informed when this has been done.

8. The Sheriff, if he considers it necessary or expedient for the due prosecution of the inquiry, may appoint the parties to revise and finally adjust their respective statements before proceeding to hold the inquiry.

9. The Sheriff shall appoint a day for the holding of the inquiry, not being less than seven days from the date on which the documents are received by him, and shall inform the appellant and respondent of the day so appointed.

10. The appellant may, at any time before the day appointed for the holding of the inquiry, withdraw his appeal by giving notice in writing to the Secretary of State.

11. The appellant shall have the right to be represented at the inquiry by a serving member of a police force or by counsel or a solicitor.

12. The respondent shall have the right to be represented at the inquiry by an officer of the police force or by the clerk or other officer of the police authority, or by counsel or a solicitor.

13. Unless the Sheriff otherwise directs, the inquiry shall be held in private.

14. Unless the Secretary of State otherwise directs, a shorthand note of the evidence given at the inquiry shall be taken.

(**a**) S.I. 1956/1999 (1956 II, p. 1766). (**b**) S.I. 1964/149 (1964 I, p. 274).
(**c**) S.I. 1952/1356 (1952 II, p. 2582).

15. The Sheriff shall include in his report (*a*) a statement of the facts admitted or found to be proved (*b*) a statement of his opinion whether the punishment awarded was warranted by the facts and, if not, what other punishment (if any) ought to have been awarded (*c*) when the appeal is against punishment by dismissal, by being required to resign, or by reduction in rank a recommendation as to whether, if the Secretary of State orders the appellant to be reinstated in the force or in his rank, such reinstatement should take effect with full pay as from the date of the appellant's suspension, dismissal, resignation or reduction in rank, as the case may be and (*d*) a recommendation as to whether the appellant should be required to pay any, and if so what part, or the whole, of his own costs of the appeal.

16. The report of the inquiry, and four copies thereof, shall be submitted to the Secretary of State as early as may be after the termination of the inquiry, together with the shorthand notes of evidence. The Notice of Appeal, the statements by the appellant and respondent, and the other documents referred to in Rules 4 and 6 of these rules shall be returned to the Secretary of State at the same time.

17. Where any notice, statement or other document is required by these rules to be sent by or to the Secretary of State or other person or authority, it shall be a sufficient compliance with these rules if such notice, statement or other document is posted, within such time (if any) as is prescribed by these rules, in a letter for recorded delivery service directed, in the case of a letter to the Secretary of State, to the Secretary, Scottish Home and Health Department, St. Andrew's House, Edinburgh, 1, and in any other case to the person for whom it is intended at his usual office or other ordinary address.

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.

19. The Police (Appeals) (Scotland) Rules 1943(a), the Police (Appeals) (Scotland) Rules 1944(b), and the Police (Appeals) (Scotland) Rules 1952(c) are hereby revoked in respect of any punishment imposed after 31st July 1964.

Michael Noble,
One of Her Majesty's Principal Secretaries of State.

St. Andrew's House,
Edinburgh.
28th July 1964.

(a) S.R. & O. 1943/481 (Rev. XVIII, p. 247: 1943 I, p. 827).
(b) S.R. & O. 1944/1019 (Rev. XVIII, p. 247: 1944 I, p. 839).
(c) S.I. 1952/1386 (1952 II, p. 2581).

SCHEDULE

Form of Notice of Appeal to the Secretary of State

I,..... on..... Give name and number.

.....19..., while holding the rank of.....

in the.....police force was punished by being Insert the punishment awarded.

on the ground that.....

.....

..... Here state the charge or charges under the Discipline Code or such other grounds, if any, as were given for the punishment.

.....

.....

.....

I received notification of the decision on.....

and acknowledged having received the decision on.....

I appeal against the said finding and punishment / punishment on the grounds fully set out in the accompanying statement.

This Notice of Appeal is accompanied by the following documentary evidence which I desire to submit:— Omit if unnecessary.

(1) ..... Give brief particulars, e.g., "letter of 10th August 1964 from Chief Constable".

(2) .....

(3) .....

At the date on which I was so punished I was in receipt of pay at the rate of £ : : per week. / per annum. Omit if there was a period of suspension immediately prior to the punishment.

Before being so punished I was suspended on.....

.....19..., at which date I was in receipt of pay at the rate of £ : : per week. / per annum. While suspended I received suspension allowance at the rate of £ : : per week. / per annum. After being suspended I was / was not notified that my period of suspension would be deducted in reckoning my approved service for the purposes of pension. Omit if there was no period of suspension immediately prior to the punishment.

I declare that a full and true copy of this Notice of Appeal, of the accompanying statement setting out fully on what grounds the appeal is made and of the documentary evidence was sent to.....as or on behalf of the respondent, on..... Give address to which sent. Give dates on which sent.

Signature.....

Address.....

.....

.....

Date.....19...

EXPLANATORY NOTE

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

These rules relate to the procedure to be followed on police disciplinary appeals, and at inquiries in connection with appeals, under the Police (Scotland) Act 1956 as amended by the Police Act 1964. They replace the Police (Appeals) (Scotland) Rules 1943, as amended by the Police (Appeals) (Scotland) Rules 1944 and 1952, with certain amendments primarily to take account of the changes provided for in the Police Act 1964, including the provision of an unqualified right for both appellant and respondent to be represented at an inquiry by counsel or a solicitor.