STATUTORY RULES OF NORTHERN IRELAND

2016 No. 43

POLICE

The Police Appeals Tribunals Regulations (Northern Ireland) 2016

Made - - - - 17th February 2016

Coming into operation 1st June 2016

The Department of Justice makes the following Regulations in exercise of the powers conferred by sections 25 and 26 of the Police (Northern Ireland) Act 1998(**1**).

In accordance with sections 25(8) and 26(6) of that Act the Department has consulted the Northern Ireland Policing Board and the Police Association for Northern Ireland.

PART 1

Preliminary

Citation and commencement

1. These Regulations may be cited as the Police Appeals Tribunals Regulations (Northern Ireland) 2016 and shall come into operation on 1st June 2016.

Revocation and transitional provisions

2.—(1) Subject to paragraph (2), the Royal Ulster Constabulary (Appeals) Regulations 2000(**2**) are revoked.

(2) In relation to an appeal against a decision made in accordance with the Royal Ulster Constabulary (Conduct) Regulations 2000(**3**), the Royal Ulster Constabulary (Conduct) (Senior Officer) Regulations 2000(**4**) or the Police (Unsatisfactory Performance and Attendance)

(**1**) 1998 c.32. Relevant amendments are made by section 78(1) of and paragraph 23 of Schedule 6 to the Police (Northern Ireland) Act 2000.
(**2**) S.R. 2000 No. 317 as amended by S.R. 2003 No. 68, S.R. No.399 and S.R. 2004 No. 315.
(**3**) S.R. 2000 No. 315 as amended by S.R. 2001 No. 184 and S.R. 2003 No. 68, S.R. 2004 No. 315, S.R. 2008 No. 56 and as modified by S.R. 2005 No. 341.
(**4**) S.R. 2000 No. 320, as amended by S.R. 2001 No. 184, S.R. 2003 No. 68 and S.R. 2004 No. 315 and S.R. 2008 No. 56.

Regulations (Northern Ireland) 2010(**5**), nothing in these Regulations shall have effect and the provisions mentioned in paragraph (1) shall continue to have effect.

Interpretation

3.—(1) The Interpretation Act (Northern Ireland) 1954(**6**) applies to these Regulations as it applies to an Act of the Assembly. In these Regulations—

"the 1998 Act" means the Police (Northern Ireland) Act 1998;

"appeals tribunal" means the person or persons appointed under regulation 11;

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

"the Board" means the Northern Ireland Policing Board;

"chair" means a chair appointed in accordance with regulation 11(3);

"complainant" means the person by, or on behalf of whom, the complaint is made;

"complaint" means a complaint about the conduct of a member of the police service which is made by, or on behalf of, a member of the public and which the Ombudsman has determined is a complaint to which section 52(4) of the 1998 Act applies;

"the Conduct Regulations" means the Police (Conduct) Regulations (Northern Ireland) 2016(**7**);

"interested person" means a person whom the appropriate authority considers has a right to be kept informed about the handling of—

(a) a complaint; or

(b) a referred matter; or

(c) a matter being investigated by the Ombudsman of his own motion under section 55(6) of the 1998 Act; or

(d) an allegation that a member may have—

(i) committed a criminal offence; or

(ii) behaved in a manner which would justify the bringing of disciplinary proceedings;

"member" means a member of the police service;

"member concerned" means the member in respect of whom proceedings under these Regulations are, or are proposed to be, taken;

"the Ombudsman" means the Police Ombudsman for Northern Ireland established by section 51 of the 1998 Act;

"original hearing" means—

(a) the misconduct meeting, misconduct hearing or special case hearing under the Conduct Regulations; or

(b) the third stage meeting under the Performance Regulations,

at or following which the relevant decision was made;

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

(**5**) S.R 2010 No. 47.
(**6**) 1954 c.33 (N.I).
(**7**) S.R. 2016 No. 41.

"the Performance Regulations" means the Police (Performance and Attendance) Regulations (Northern Ireland) 2016(**8**);

"police force" means the police service, a police force within the meaning of section 101 of the 1996 Act(**9**) or the Police Service of Scotland within the meaning of section 6 of the Police and Fire Reform (Scotland) Act 2012(**10**);

"police fund" means the fund established by regulation 3 of the Royal Ulster Constabulary Fund Regulations 1972(**11**);

"police officer" means a member of a police force;

"the police service" means the Police Service of Northern Ireland or the Police Service of Northern Ireland Reserve;

"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 or 5, and related expressions shall be construed accordingly;

"respondent" has the meaning given by regulation 8;

"senior officer" means a member above the rank of chief superintendent;

"specified appeal" means an appeal where the relevant decision arose from a case where—

(a) a recommendation had been made under section 59(2) of the 1998 Act that disciplinary proceedings should be brought; or

(b) a direction had been made under section 59(5) of that Act;

"transcript" includes a record of proceedings in digital format;

"tribunal" means a police appeals tribunal appointed in accordance with regulation 11.

(2) In these Regulations, any expression which is also used in the Conduct Regulations or the Performance Regulations shall, unless that expression is given a different meaning in paragraph (1), 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 him in person; or

(b) if the Board or the tribunal, as the case may be, reasonably believes that the member is avoiding service, left with some person at, or sent by recorded delivery to, his last known address.

Circumstances in which a member may appeal to a tribunal

4.—(1) Subject to paragraph (3), a member 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—

(**8**) S.R. 2016 No. 42.
(**9**) 1996 c.16.
(**10**) 2012 asp 8.
(**11**) S.R. 1972 No. 103.

(a) a member 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

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

(3) A member may not appeal to a tribunal against a finding referred to in paragraph (2)(a), (b) or (c) where that finding was made following acceptance by the member that his 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 or other unfairness which could have materially affected the finding or decision on disciplinary action.

5.—(1) Subject to paragraph (3), a member 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 (6) against—

(a) a finding referred to in paragraph (2) made under the Performance Regulations; or

(b) an outcome which is imposed under the Performance Regulations as a consequence of such a finding and is mentioned in paragraph (4) or (5),

or both.

(2) This paragraph applies to a member against whom a finding of unsatisfactory performance or attendance or gross incompetence has been made at a third stage meeting.

(3) A member may not appeal to a tribunal against a finding referred to in paragraph (2) where that finding was made following acceptance by the member that his performance or attendance has been unsatisfactory or that he has been grossly incompetent (as the case may be).

(4) Where there has been a finding of unsatisfactory performance or attendance following a third stage meeting which the member was required to attend under regulation 26 of the Performance Regulations, he may appeal against the following outcomes—

(a) dismissal with notice,

(b) reduction in rank.

(5) Where there has been a finding of gross incompetence or unsatisfactory performance following a third stage meeting which the member concerned was required to attend under regulation 28 of the Performance Regulations, he may appeal against the following outcomes—

(a) dismissal without notice,

(b) reduction in rank,

(c) redeployment to alternative duties,

(d) the issue of a written improvement notice,

(e) the issue of a final written improvement notice.

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

(a) that the finding or outcome 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 the outcome; or

(c) that there was a breach of the procedures set out in the Performance Regulations or other unfairness which could have materially affected the finding or decision on the outcome; or

(d) that, where the member concerned was required to attend a third stage meeting under regulation 26 of the Performance Regulations, he should not have been required to attend that meeting as it did not, in accordance with regulation 26(6) or 41(9) of those Regulations, concern unsatisfactory performance or attendance similar to or connected with the unsatisfactory performance or attendance referred to in the final written improvement notice.

Notice of appeal

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

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

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

7.—(1) This regulation applies where a member 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 member may give notice of the appeal within a reasonable time after the end of such period and the notice shall be accompanied by the reasons why it was not served within the period and the reason for the member's view that it has been served within a reasonable time after such period.

(3) Upon receipt, the Board 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 the Chief Executive Officer of the Board, or in their absence, a person designated by the Board.

(2) Where the appellant is a member who is not a senior officer the respondent shall be the Chief Constable.

Procedure on notice of appeal

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

(a) to the respondent; and

(b) where the appeal is a specified appeal, to the Ombudsman.