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SCOTTISH STATUTORY INSTRUMENTS

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**2016 No. 51**

**The Police Service of Scotland (Senior Officers) (Performance) Regulations 2016**

PROSPECTIVE

**PART 5**

Consequential amendments, etc.

The Police Appeals Tribunals (Scotland) Rules 2013

**40.**—(1) The Police Appeals Tribunals (Scotland) Rules 2013(1) are amended as follows.

(2) In rule 2 (interpretation)(2)—

(a) in the appropriate places insert—

““2013 Conduct Regulations” means the Police Service of Scotland (Conduct) Regulations 2013(3);”;

““2013 Performance Regulations” means the Police Service of Scotland (Performance) Regulations 2013(4);”;

““2014 Conduct Regulations” means the Police Service of Scotland (Conduct) Regulations 2014(5);”;

““2014 Performance Regulations” means the Police Service of Scotland (Performance) Regulations 2014(6);”;

““performance hearing” means—

(a) in relation to the 2014 Performance Regulations—

(i) a performance hearing to which a constable has been referred under regulation 31(4) of those Regulations; or

(ii) a further performance hearing to which a constable has been referred under regulation 41(4) of those Regulations;

(b) in relation to the Senior Officers’ Performance Regulations—

(i) a performance hearing to which a senior officer has been referred under regulation 27(4) of those Regulations; or

(ii) a further performance to which a senior officer has been referred under regulation 37(4) of those Regulations;”;

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(1) S.S.I. 2013/63.  
(2) Rule 2 has been amended by S.S.I. 2014/67 and S.S.I. 2014/68.  
(3) S.S.I. 2013/60.  
(4) S.S.I. 2013/61.  
(5) S.S.I. 2014/68.  
(6) S.S.I. 2014/67.

*Status: This version of this part contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the The Police Service of Scotland (Senior Officers) (Performance) Regulations 2016, PART 5. (See end of Document for details)*

- ““Senior Officers’ Performance Regulations” means the Police Service of Scotland (Senior Officers) (Performance) Regulations 2016;”;
- (b) in the definition of “inefficiency hearing” for “the Performance Regulations” substitute “the 2013 Performance Regulations”; and
  - (c) omit the definitions of “Conduct Regulations” and “Performance Regulations”.
- (3) In rule 5(3) (notice of appeal), for paragraph (b) substitute—
- “(b) a copy of the disputed decision including (as the case may be)—
    - (i) where the disputed decision was made under the 2013 Conduct Regulations, the misconduct form sent under regulation 23(4)(a) of those Regulations;
    - (ii) where the disputed decision was made under the 2014 Conduct Regulations, a copy of the written notifications given under regulation 23(1) of those Regulations;
    - (iii) where the disputed decision was made under the Senior Officers’ Conduct Regulations, a copy of the written notifications given under regulation 24(1) of those Regulations;
    - (iv) where the disputed decision was made under the 2013 Performance Regulations, the written decision of the chairing constable of the inefficiency hearing under regulation 17 of those Regulations;
    - (v) where the disputed decision was made under the 2014 Performance Regulations, any written notice under regulation 39(2) of those Regulations; and
    - (vi) where the disputed decision was under the Senior Officers’ Performance Regulations, any written notice under regulation 35(2) of those Regulations; and”.
- (4) In rule 6 (reply by respondent), for paragraph (2) substitute—
- “(2) Where the respondent intends to oppose the appeal, the respondent must attach to the notice—
    - (a) a statement setting out fully on what grounds the appeal is opposed and any representations with respect to the information contained with the appellant’s notice of appeal;
    - (b) where the disputed decision was made under the 2013 Conduct Regulations, a certified copy of—
      - (i) the misconduct form prepared under regulation 11(4)(a) of those Regulations in connection with the proceedings giving rise to the appeal;
      - (ii) the written note prepared and audio recording made under regulation 19(11) of those Regulations; and
      - (iii) the notice prepared under regulation 28(11) of those Regulations;
    - (c) where the disputed decision was made under the 2014 Conduct Regulations, a certified copy of—
      - (i) the misconduct form sent under regulation 15(2) of those Regulations in connection with the proceedings giving rise to the appeal;
      - (ii) the audio recording made under regulation 18(5) or (as the case may be) the written record sent under regulation 18(6)(d) of those Regulations; and
      - (iii) the notice under regulation 26(2) of those Regulations;
    - (d) where the disputed decision was made under the Senior Officers’ Conduct Regulations, a certified copy of—

- (i) the misconduct form sent under regulation 16(2) of those Regulations in connection with the proceedings giving rise to the appeal;
- (ii) the audio recording made under regulation 19(5) or (as the case may be) the written record sent under regulation 19(6)(d) of those Regulations; and
- (iii) the notice under regulation 26(9) of those Regulations;
- (e) where the disputed decision was made under the 2013 Performance Regulations, a certified copy of—
  - (i) the notice sent under regulation 14 of those Regulations;
  - (ii) the written note prepared under regulation 15(8) of those Regulations; and
  - (iii) the notice under regulation 22(6) of those Regulations recording the chief constable’s determination;
- (f) where the disputed decision was made under the 2014 Performance Regulations, a certified copy of—
  - (i) the notice under regulation 33(1) of those Regulations;
  - (ii) the audio recording made under regulation 38(6) of those Regulations; and
  - (iii) the notice under regulation 46(3) of those Regulations;
- (g) where the disputed decision was made under the Senior Officers’ Performance Regulations, a certified copy of—
  - (i) the notice under regulation 29(1) of those Regulations; and
  - (ii) the audio recording made under regulation 34(5) of those Regulations; and
- (h) any documentary evidence on which the respondent intends to rely for the purposes of opposing the appeal.”.

**Commencement Information**

**II** Reg. 40 in force at 1.4.2016, see [reg. 1](#)

The Police Service of Scotland Regulations 2013

**41.**—(1) Regulation 11 of the Police Service of Scotland Regulations 2013 (personal records)(7) is amended as follows.

(2) For paragraph (3)(d) substitute—

- “(d) when the condition in paragraph (3A) is met, any record of proceedings (including any disposal made) taken against the constable under or by virtue of—
- (i) the Police Service of Scotland (Performance) Regulations 2013;
  - (ii) the Police Service of Scotland (Performance) Regulations 2014; or
  - (iii) the Police Service of Scotland (Senior Officers) (Performance) Regulations 2016.”.

(3) After paragraph (3) insert—

“(3A) The condition mentioned in paragraph (3)(d) is that 2 years have elapsed since the date of the most recent action under those Regulations in relation to any proceedings taken against the constable or (as the case may be) senior officer.”.

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**Commencement Information**

**I2** Reg. 41 in force at 1.4.2016, see [reg. 1](#)

**Revocation**

**42.** Regulation 23 (senior officer performance) of the Police Service of Scotland (Performance) Regulations 2013<sup>(8)</sup> is revoked.

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**Commencement Information**

**I3** Reg. 42 in force at 1.4.2016, see [reg. 1](#)

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<sup>(8)</sup> S.S.I. 2013/61.

**Status:**

This version of this part contains provisions that are prospective.

**Changes to legislation:**

There are currently no known outstanding effects for the The Police Service of Scotland (Senior Officers) (Performance) Regulations 2016, PART 5.