
STATUTORY INSTRUMENTS

2012 No. 808

The Ministry of Defence Police (Performance) Regulations 2012

Part 6

Consequential Amendments

Amendment of the Ministry of Defence Police (Conduct) Regulations 2009

- 42.**—(1) The Ministry of Defence Police (Conduct) Regulations 2009⁽¹⁾ are amended as follows.
- (2) In regulation 3(1) insert in the appropriate place—
- ““the Performance Regulations” means the Ministry of Defence Police (Performance) Regulations 2012;”.
- (3) In regulation 12(2) after paragraph (c) insert—
- “(d) except where paragraph (c) applies, if the officer is not a senior officer and the allegation in respect of conduct came to the attention of the appropriate authority on or after 6 April 2012, refer the matter to be dealt with under the Performance Regulations.”.
- (4) In regulation 12(6) after “Restoring Efficiency Procedures” insert “or the Performance Regulations”.
- (a) In regulation 19(3) after paragraph (c) insert—
- “(d) except where paragraph (c) applies, if the officer is not a senior officer and the allegation in respect of conduct came to the attention of the appropriate authority on or after 6 April 2012, refer the matter to be dealt with under the Performance Regulations.”.
- (5) In regulation 19(9)(b) after “Restoring Efficiency Procedures” insert “or the Performance Regulations”.
- (6) In regulation 20(2)(a)(iii) after “Restoring Efficiency Procedures” insert “or the Performance Regulations”.

Amendment of the Ministry of Defence Police Appeals Tribunals Regulations 2009

- 43.**—(1) The Ministry of Defence Police Appeals Tribunals Regulations 2009⁽²⁾ are amended as follows.
- (2) In regulation 3—
- (a) In paragraph (1)—
- (i) for the definition of “original hearing” substitute—
- ““original hearing” means—

(1) [S.I. 2009/3069](#).
(2) [S.I. 2009/3070](#).

- (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;”;

(ii) insert in the appropriate place ““Performance Regulations” means the Ministry of Defence Police (Performance) Regulations 2012”;

(iii) in the definition of “relevant decision” after “regulation 4” insert “or 4A”

(b) For paragraph (2) substitute—

“(2) In these Regulations, any expression which is also used in the Conduct Regulations has the same meaning as in those Regulations in relation to an appeal from a finding or disciplinary action imposed under those Regulations.”

(c) After paragraph (2) insert—

“(2A) In these Regulations, any expression which is also used in the Performance Regulations has the same meaning as in those Regulations in relation to an appeal from a finding or outcome imposed under those Regulations.”.

(3) After regulation 4 insert—

“Circumstances in which a police officer may appeal to a tribunal against a finding or disciplinary action under the Performance Regulations

4A.—(1) Subject to paragraph (3), a police officer 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 a finding that is mentioned in paragraph (4) or (5),

or both.

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

(3) A police officer may not appeal to a tribunal against the finding referred to in paragraph (2) where that finding was made following acceptance by the officer that the conduct amounted to unsatisfactory performance or attendance or gross incompetence (as the case may be).

(4) Where there has been a finding of unsatisfactory performance or attendance following a third stage meeting which the police officer was required to attend under regulation 26 of the Performance Regulations, that officer 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 police officer was required to attend under regulation 28 of the Performance Regulations, that officer may appeal against the following outcomes—

- (a) dismissal without notice;
- (b) reduction in rank;
- (c) redeployment to alternative duties;

- (d) the issue of a final written improvement notice;
- (e) the issue of a 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 have 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 police officer was required to attend the third stage meeting under regulation 26 of the Performance Regulations, that officer should not have been required to attend that meeting as it did not, in accordance with regulation 26(6) or 40(9) of those Regulations, concern unsatisfactory performance or attendance similar or connected with the unsatisfactory performance or attendance referred to in the final written improvement notice.”
- (4) In paragraph (2) of regulation 9 add at the end of subparagraph (a) “or regulation 37(3) of the Performance Regulations”.