
STATUTORY INSTRUMENTS

2013 No. 2325

**The National Crime Agency (Complaints
and Misconduct) Regulations 2013**

PART 8

General

Appeals

82.—(1) This regulation applies to an appeal under any of the following provisions of these Regulations—

- (a) regulation 21(3) (appeal against a failure to notify or record a complaint);
- (b) regulation 25(15) (appeal against a decision to handle a complaint otherwise than in accordance with these Regulations or take no action in relation to it);
- (c) regulation 27(1) (appeal against the outcome of a complaint subjected to local resolution or handled otherwise than in accordance with these Regulations);
- (d) paragraph 64(19) (appeal against a decision to discontinue an investigation); and
- (e) regulation 71(2) (appeal in relation to an investigation).

(2) Where the Permanent Secretary to the Home Office or the Director General notifies the complainant of a decision which is or may be capable of appeal under any of the provisions in paragraph (1), the Permanent Secretary or the Director General shall at the same time notify the complainant in writing of—

- (a) the existence of the right of appeal;
- (b) the identity of the relevant appeal body or, in a case to which regulation 21(3) applies, the fact that the appeal is to the Commission;
- (c) where the appropriate authority has determined that the Commission is the relevant appeal body, the sub-paragraph of regulation 83(2) relied upon in making that determination;
- (d) where the appropriate authority has determined that the Director General is the relevant appeal body, the fact that there is no right of appeal to the Commission; and
- (e) the time limit for making an appeal mentioned in paragraph (3).

(3) Subject to paragraphs (4) and (5), an appeal shall be made within a period of 28 days commencing on the day after the date of the letter giving notification under paragraph (2).

(4) For the purposes of the time period mentioned in paragraph (3), the following shall be left out of account—

- (a) any time elapsing between the appeal being received by the Commission under regulation 83(3) and being forwarded to the appropriate authority under that paragraph;
- (b) any time elapsing between the appeal being received by the appropriate authority under regulation 83(5) and being forwarded to the Commission under that paragraph.

(5) The relevant appeal body or, in a case of an appeal under regulation 21(3), the Commission may extend the time period mentioned in paragraph (3) in any case where it is satisfied that by reason of the special circumstances of the case it is just to do so.

(6) Subject to paragraph (7), an appeal shall be made in writing and shall state—

- (a) details of the complaint;
- (b) the date on which the complaint was made;
- (c) the Permanent Secretary to the Home Office or the Director General whose decision is the subject of the appeal;
- (d) the grounds for the appeal; and
- (e) the date on which notification was given under paragraph (2).

(7) Where the relevant appeal body or, in the case of an appeal under regulation 21(3), the Commission receives an appeal which fails to comply with one or more of the requirements mentioned in paragraph (6), it may decide to proceed as if those requirements had been complied with.

(8) Where the Commission receives an appeal it shall—

- (a) in the case of an appeal under regulation 21(3), notify the Permanent Secretary to the Home Office or the Director General concerned of the appeal as soon as reasonably practicable; and
- (b) in that or any other case, request any information from any person which it considers necessary to dispose of the appeal.

(9) Any person receiving a request under paragraph (8)(b) shall supply to the Commission the information requested.

(10) The relevant appeal body or, in the case of an appeal under regulation 21(3), the Commission shall determine the outcome of the appeal as soon as practicable.

(11) The relevant appeal body or, in the case of an appeal under regulation 21(3), the Commission shall notify the complainant of the reasons for its determination, and the Commission—

- (a) in the case of an appeal under the said regulation, shall also notify the Permanent Secretary to the Home Office or the Director General; and
- (b) in a case where it is the relevant appeal body, shall also notify the appropriate authority.

(12) In the case of an appeal other than one under regulation 21(3)—

- (a) where the Commission is the relevant appeal body—
 - (i) it shall notify the complainant of any direction it gives to the appropriate authority as to the future handling of the complaint; and
 - (ii) subject to paragraph (13), the appropriate authority shall notify the person complained against of any such direction;
- (b) where the Director General is the relevant appeal body, the Director General shall notify the complainant and the person complained against of the action that he proposes to take in relation to the complaint.

(13) An appropriate authority may decide not to make a notification under paragraph (12)(a)(ii) if it is of the opinion that to do so might prejudice any criminal investigation or pending proceedings or would otherwise be contrary to the public interest.