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STATUTORY INSTRUMENTS

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**2008 No. 2864**

**The Police (Conduct) Regulations 2008**

**PART 4**

**Misconduct Proceedings**

**Appeal from misconduct meeting: officers other than senior officers**

**38.**—(1) Where the officer concerned is an officer, other than a senior officer, whose case was decided at a misconduct meeting, he may, subject to the provisions of this regulation, appeal—

- (a) if he admitted his conduct amounted to misconduct, against any disciplinary action imposed under regulation 35; or
- (b) if (after he denied misconduct) the person conducting the misconduct meeting found that his conduct amounted to misconduct, against that finding or any disciplinary action imposed under regulation 35.

(2) The only grounds of appeal under this regulation are that—

- (a) the finding or disciplinary action imposed was unreasonable;
- (b) there is evidence that could not reasonably have been considered at the misconduct meeting which could have materially affected the finding or decision on disciplinary action; or
- (c) there was a serious breach of the procedures set out in these Regulations or other unfairness which could have materially affected the finding or decision on disciplinary action.

(3) An appeal under this regulation shall be commenced by the officer concerned giving written notice of appeal to the appropriate authority—

- (a) before the end of 7 working days beginning with the first working day after the written notice and summary of reasons is given under regulation 36 (unless this period is extended by the appropriate authority for exceptional circumstances); and
- (b) stating the grounds of appeal and whether a meeting is requested.

(4) An appeal under this regulation shall be determined—

- (a) where the person who conducted the misconduct meeting was a member of a police force, by—
  - (i) a member of a police force of at least one rank higher than that person; or
  - (ii) unless the case substantially involves operational policing matters, a police staff member who, in the opinion of the appropriate authority, is more senior than that person;
- (b) where the person who conducted the misconduct meeting was a police staff member, by—
  - (i) a member of a police force who, in the opinion of the appropriate authority is more senior than that person; or
  - (ii) a more senior police staff member,

who is not an interested party, appointed by the appropriate authority.

(5) The appropriate authority shall as soon as practicable give the officer concerned written notice of—

- (a) the name of the person appointed to determine the appeal under paragraph (4);
- (b) the name of any person appointed under regulation 7(5) to advise the person determining the appeal; and
- (c) the effect of paragraphs (6) to (9) of this regulation.

(6) The officer concerned may object to any person whom he is notified under this regulation is to—

- (a) determine the appeal; or
- (b) advise the person determining the appeal.

(7) Any such objection must be made in writing to the appropriate authority before the end of 3 working days beginning with the first working day after the officer concerned is given notice of the person's name and must set out the grounds of objection of the officer concerned.

(8) The appropriate authority shall notify the officer concerned in writing whether it upholds or rejects an objection to the person appointed to conduct the appeal meeting or to any person appointed under regulation 7(5) to advise the person conducting the appeal meeting.

(9) If the appropriate authority upholds the objection, the person to whom the officer concerned objects shall be replaced (in accordance with regulation 7(5) or (6) or paragraph (4) as appropriate).

(10) As soon as reasonably practicable after any such appointment, the appropriate authority shall notify in writing the officer concerned of the name of the new person appointed to determine the appeal or the advisor to the person determining the appeal as the case may be.

(11) The officer concerned may object to the appointment of a person appointed under regulation (9).

(12) Any such objection must be made in accordance with paragraph (7), provided that it must be made before the end of 3 working days beginning with the first working day after the officer concerned is given the notice referred to in paragraph (10); and the appropriate authority shall comply with paragraphs (8) to (10) in relation to that objection.