



Armed Forces Act 2011

2011 CHAPTER 18

Miscellaneous amendments of Armed Forces Act 2006

20 Service complaint panels

- (1) In section 335 of AFA 2006 (service complaints: role of Defence Council and service complaint panels)—
 - (a) in subsection (1), after “may,” insert “in the case of a service complaint and”;
 - (b) in subsection (2), for “The delegation under subsection (1) of a function” substitute “A decision by the Defence Council to delegate under subsection (1)”;
 - (c) for subsection (3) substitute—
 - “(3) The Defence Council—
 - (a) must determine the size of a service complaint panel (subject to section 336(2) and any provision made by virtue of section 336(6) relating to the size of a panel); and
 - (b) must appoint the members of a service complaint panel, other than any members appointed by the Secretary of State by virtue of section 336 or 336A.”; and
 - (d) in subsection (4)(b), for “function of appointing members of service complaint panels” substitute “functions”.
- (2) Section 336 of AFA 2006 (composition and procedure of service complaint panels) is amended as follows.
- (3) In subsection (1), for the words from “regulations” to the end substitute “determination under this section, or regulations under this section or section 336A, relating to independent members.”
- (4) Omit subsection (3).
- (5) After subsection (4) insert—
 - “(4A) The Defence Council may determine—

Status: This is the original version (as it was originally enacted).

- (a) that a service complaint panel is to include a specified number of independent members;
 - (b) that specified functions are to be exercised by independent members of a service complaint panel.
- (4B) A determination under subsection (4A) may relate to—
- (a) a particular service complaint; or
 - (b) any service complaint of a description determined by the Defence Council.
- (4C) The Defence Council may, to such extent and subject to such conditions as they consider appropriate, delegate to a person employed in the civil service of the State or an officer their function under subsection (4A) of determining—
- (a) whether a service complaint panel is to include independent members (and, if so, how many);
 - (b) whether particular functions are to be exercised by independent members of a service complaint panel.
- (4D) A delegation under subsection (4C) may relate to—
- (a) a particular service complaint;
 - (b) any service complaint of a description determined by the Defence Council; or
 - (c) all service complaints.
- (4E) The Defence Council may not—
- (a) make a determination under subsection (4A)(a) where a requirement mentioned in subsection (6)(a)(i) or (ii) or section 336A(2)(a) applies;
 - (b) make a determination under subsection (4A)(b) where a requirement mentioned in subsection (6)(a)(iii) or section 336A(2)(b) applies.”
- (6) In subsection (6)—
- (a) for “The regulations” substitute “Regulations under subsection (5)(a)”; and
 - (b) for paragraph (a) substitute—
 - “(a) impose, in the case of any service complaint of a prescribed description, one or more of the following requirements—
 - (i) a requirement for a service complaint panel to include a prescribed number of independent members;
 - (ii) a requirement for all or a prescribed majority of the members of a service complaint panel to be independent members;
 - (iii) a requirement for prescribed functions to be exercised by independent members of a service complaint panel;”.
- (7) After section 336 of AFA 2006 insert—

“336A Requirement to delegate to service complaint panel

- (1) Regulations made by the Secretary of State may, in relation to any service complaint of a prescribed description, make provision—

- (a) requiring the Defence Council to exercise their power under section 335(1) to delegate to a service complaint panel all or any of the functions conferred on them by or under section 334; and
 - (b) imposing one or more of the requirements mentioned in subsection (2).
- (2) Those requirements are—
- (a) a requirement for all or a prescribed majority of the members of the service complaint panel to be independent members;
 - (b) a requirement for prescribed functions to be exercised by independent members of the service complaint panel.
- (3) In this section—
- “independent member” has the same meaning as in section 336;
 - “prescribed” means prescribed by regulations under this section;
 - “service complaint” has the same meaning as in section 334;
 - “service complaint panel” has the same meaning as in section 335.”