
EXPLANATORY NOTE

(This note is not part of the Regulations)

Under section 340A(1) and (2) of the Armed Forces Act 2006 (“the Act”) a person subject to service law, or who has ceased to be subject to service law, who thinks himself or herself wronged in any matter relating to his or her service, may make a service complaint about the matter. Under section 340H(1) of the Act the complainant may apply to the Service Complaints Ombudsman (“the Ombudsman”) to investigate his or her complaint or related maladministration.

These Regulations make provision about Ombudsman investigations, including the procedure to be followed.

Regulation 3 specifies the information required in an application by a complainant to the Ombudsman.

The period for a complainant to make an application to the Ombudsman is specified in regulation 4, including the circumstances in which the Ombudsman may accept an application after the end of the period.

Regulation 5 requires the Ombudsman to decide whether to begin an investigation and to notify specified persons of his or her decision. Where the Ombudsman decides to investigate further maladministration in accordance with section 340H(7) of the Act, he or she must provide written reasons for that decision to the complainant and the Defence Council.

If the complainant notifies the Ombudsman of his or her wish to withdraw an application the Ombudsman must send a copy of the notification to the Defence Council and decide, in the light of the notification, whether to begin, continue or discontinue the investigation (regulation 6).

Regulation 7 empowers the Ombudsman to request information and documents for the purposes of an investigation and to continue with the investigation even if they are not provided as requested.

Regulation 8(1) requires the Ombudsman to give specified persons an opportunity to comment on matters which are the subject of an investigation. Regulation 8 also provides for oral hearings, with where the Ombudsman may permit representation, and for the payment of expenses and allowances.

The Ombudsman may, under regulation 9(1), send a copy of a draft report to the complainant and to persons specified in regulation 8(1), and may refer in the final report to any comments received. Regulation 9(4) states the persons to whom the Ombudsman must send a copy of the final report (in addition to the complainant and the Defence Council, who must receive a copy under section 340L(5) of the Act). Regulation 9 also empowers the Ombudsman to impose duties of confidentiality on those provided with a copy of a draft, or the final, report.

Regulation 10 enables the Ombudsman to investigate a subsequent application relating to a complaint, where that application relates to a reconsideration of the complaint following a decision by the Ombudsman.