
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make transitional and savings provisions in connection with the commencement of sections 1 to 3 of the Armed Forces (Service Complaints and Financial Assistance) Act 2015 (c. 19) (“the 2015 Act”). The 2015 Act amends the Armed Forces Act 2006 (c. 52) (“the 2006 Act”) to introduce a new service complaints system.

These Regulations make provision about how complaints that were made under the old complaints provisions (“pre-commencement complaints”) are to be treated on the commencement of the new complaints provisions. They also make provision in connection with the abolition of the office of Service Complaints Commissioner and the establishment of the office of Service Complaints Ombudsman.

Part 1 contains preliminary provisions, including provisions on interpretation. In particular, regulation 3 sets out the meaning of a finalised complaint for the purposes of the Regulations.

Part 2 makes provision in respect of those pre-commencement complaints that are to continue to be considered under the old complaints provisions. Regulation 4 provides for sections 334 to 336A and 338 of the 2006 Act, and provisions made under them, to continue in force in relation to pre-commencement complaints which have not been finalised where both the prescribed officer and the superior officer have made a decision as to whether the complaint is well founded (and, if so, the appropriate redress) which has been notified to the complainant. These are referred to as Part 2 complaints. Regulation 5 sets out the powers of the Ombudsman in relation to Part 2 complaints.

Part 3 makes provision in respect of those pre-commencement complaints that are to be considered under the new complaints provisions. Regulation 6 provides for the new complaints provisions to apply to pre-commencement complaints that are not finalised and not Part 2 complaints. These are referred to as Part 3 complaints. Regulation 7 sets out how the new complaints provisions are to be interpreted in relation to the consideration of those complaints. Regulations 8 to 12 provide for certain things done in relation to Part 3 complaints under the old complaints provisions to be treated as things done under the new complaints provisions.

Part 4 contains further transitional and savings provisions. Regulation 13 provides for the Ombudsman to have powers to investigate finalised complaints which have been the subject of a decision of the Defence Council (or a service complaint panel) where the complainant was an officer at the time of the making of the complaint (or at the time of the matter complained of). Regulation 14 makes provision for section 337 of the 2006 Act, which relates to the seeking of directions from Her Majesty by the Defence Council on individual grievances made by officers (or those who were officers at the time of the matter complained of), to continue to apply to Parts 2 and 3 complaints and those complaints to which regulation 13 applies. It also makes provision about the relationship between the right to make an application under section 337(4) of the 2006 Act and the right to make an application to the Ombudsman under section 340H(1) of the 2006 Act. Regulation 15 sets out how allegations made to the Commissioner, and dealt with under section 338 of the 2006 Act, that have not, prior to the commencement date, resulted in service complaints are to be dealt with. Regulation 16 provides for the Ombudsman to prepare an annual report for 2015. Regulation 17 transfers the Commissioner’s property, rights and liabilities to the Ombudsman. Regulation 18 makes provision on the application of the consequential amendments provided for in section 3 of, and the Schedule to, the 2015 Act to pre-commencement complaints.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

The Armed Forces Redress of Individual Grievances (Procedures and Time Limits) Regulations 2007 (referred to in these Regulations as the “old regulations”) are available as Annex D to the Ministry of Defence’s Joint Service Publication, number 831. This is available on www.gov.uk at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/356877/JSP831_Issue3_0.pdf

The Regulations are also available by writing to CDP Secretariat, Service Complaints, Main Building 6 K 37, London, SW1A 2HB.