
STATUTORY INSTRUMENTS

2023 No. 624

The Service Police (Complaints etc.) Regulations 2023

PART 3

Complaints etc.

CHAPTER 2

Handling of complaints

Reference of complaints to the Commissioner

- 13.—**(1) An appropriate authority must refer a complaint to the Commissioner if—
- (a) the complaint alleges that the conduct or other matter complained of has resulted in death or serious injury;
 - (b) the complaint does not fall within sub-paragraph (a) but alleges conduct which constitutes—
 - (i) a serious assault, as determined in guidance issued by the Commissioner;
 - (ii) a serious sexual offence, as determined in guidance issued by the Commissioner;
 - (iii) serious corruption, including abuse of position for a sexual purpose or the purpose of pursuing an improper emotional relationship, as determined in guidance issued by the Commissioner;
 - (iv) a service offence or behaviour which is liable to lead to the initiation of administrative action procedures and which, in either case, was aggravated by discriminatory behaviour on the grounds of a person's race, sex, religion or other status as determined in guidance issued by the Commissioner;
 - (v) a relevant service offence;
 - (c) the complaint arises from the same incident as one in which any conduct falling within sub-paragraph (a) or (b) is alleged;
 - (d) the complaint does not fall within sub-paragraph (a), (b) or (c) but—
 - (i) relates to the conduct of a Provost Marshal; and
 - (ii) the appropriate authority is unable to satisfy itself, from the complaint alone, that the conduct complained of (if it were proved) would not justify the bringing of disciplinary proceedings or the initiation of administrative action procedures; or
 - (e) the Commissioner notifies the appropriate authority that the complaint in question is to be referred to the Commissioner.
- (2) In a case where there is no obligation under paragraph (1) to make a reference, an appropriate authority may refer a complaint to the Commissioner if that authority considers that it would be appropriate to do so by reason of—
- (a) the gravity of the subject-matter of the complaint; or

(b) any exceptional circumstances.

(3) Where a Provost Marshal is the appropriate authority in relation to a complaint, and a reference under paragraph (1) or (2) is neither made nor required to be made, the appropriate authority for that Provost Marshal may refer a complaint to the Commissioner if it considers that it would be appropriate to do so by reason of—

- (a) the gravity of the subject-matter of the complaint; or
- (b) any exceptional circumstances.

(4) Where there is an obligation under paragraph (1) to refer a complaint to the Commissioner, it must be so referred—

- (a) in relation to a complaint falling within any of sub-paragraphs (a) to (d) of that paragraph—
 - (i) without delay and in any event not later than the end of the day following the day on which it becomes clear to the appropriate authority that the complaint is one to which that sub-paragraph applies; and
 - (ii) in such manner as the Commissioner determines.
- (b) in relation to a complaint falling within sub-paragraph (e) of that paragraph—
 - (i) without delay and in any event not later than the end of the day following the day on which the Commissioner notifies the appropriate authority that the complaint is to be referred; and
 - (ii) in such manner as the Commissioner determines.

(5) Subject to paragraph (9)—

- (a) the power of the Commissioner by virtue of paragraph (1)(e) to require a complaint to be referred to the Commissioner;
- (b) the power of an appropriate authority to refer a complaint to the Commissioner under paragraph (2); or
- (c) the power of the Defence Council or Board to refer a complaint to the Commissioner under paragraph (3),

is exercisable at any time irrespective of whether the complaint is already being investigated by any person or has already been considered by the Commissioner.

(6) The power of an appropriate authority to refer a complaint to the Commissioner under paragraph (2) is also exercisable after a complaint has been handled in accordance with this Part if a recommendation is made under regulation 18(6)(a) or 64(12)(b).

(7) An appropriate authority which refers a complaint to the Commissioner under paragraph (1) or (2) must give a notification of the making of the reference to—

- (a) the complainant; and
- (b) except in a case where it appears to that body or person that to do so might prejudice an investigation of the complaint (whether an existing investigation or a possible future one), the person complained against (if any).

(8) The Defence Council or a Board which refers a complaint to the Commissioner under paragraph (3) must give a notification of the making of the reference to—

- (a) the complainant;
- (b) except in a case where it appears to that body that to do so might prejudice an investigation of the complaint (whether an existing investigation or a possible future one), the person complained against (if any); and
- (c) the appropriate authority.

(9) A complaint that has already been referred to the Commissioner under this regulation on a previous occasion, or that has been treated as having been so referred by virtue of regulation 14—

- (a) is not required to be referred again under this regulation unless the Commissioner so directs; and
- (b) must not be referred in exercise of any power conferred by this regulation unless the Commissioner consents.

(10) The appropriate authority must record any complaint that is referred to the Commissioner under this regulation that has not already been recorded.

Commencement Information

II Reg. 13 in force at 19.6.2023, see [reg. 1\(1\)](#)

Changes to legislation:

There are currently no known outstanding effects for the The Service Police (Complaints etc.) Regulations 2023, Section 13.