



# Armed Forces Act 2006

## 2006 CHAPTER 52

### [<sup>F1</sup>PART 14A

#### REDRESS OF SERVICE COMPLAINTS

##### *Investigations by Service Complaints Ombudsman*

#### [<sup>F1</sup>340H Ombudsman investigations

- (1) The Service Complaints Ombudsman may, on an application to the Ombudsman by a person within subsection (2), investigate—
  - (a) a service complaint, where the Ombudsman is satisfied that the complaint has been finally determined;
  - (b) an allegation of maladministration in connection with the handling of a service complaint (including an allegation of undue delay), where the Ombudsman is satisfied that the complaint has been finally determined;
  - (c) an allegation of undue delay in the handling of a service complaint which has not been finally determined;
  - (d) an allegation of undue delay in the handling of a relevant service matter.
- (2) The following persons are within this subsection—
  - (a) in a case relating to a service complaint, the complainant;
  - (b) in a case relating to a matter in respect of which a service complaint has not been made, the person who raised the matter,and, in relation to a case mentioned in paragraph (b), references in the remainder of this Part to the complainant and to a service complaint are to be read respectively as references to the person and the matter mentioned in that paragraph.
- (3) For the purposes of subsection (1)(d)—
  - (a) “relevant service matter” means a matter of a kind about which a service complaint—
    - (i) may be made, whether or not at the time of the application to the Ombudsman such a complaint has been made, or

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*Changes to legislation: Armed Forces Act 2006, Section 340H is up to date with all changes known to be in force on or before 16 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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- (ii) could have been made (but for provision made by virtue of section 340B(2)(c));
  - (b) the reference to the handling of a matter is to its handling before the making of a service complaint (if any) about the matter.
- (4) An application to the Ombudsman—
- (a) must be made in writing,
  - (b) must specify the kind (or kinds) of investigation which the complainant wishes the Ombudsman to carry out (an investigation under a particular paragraph of subsection (1) being a “kind” of investigation for this purpose), and
  - (c) must contain any other information specified in regulations made by the Secretary of State.
- (5) For the purposes of this section, a service complaint has been finally determined where—
- (a) a decision has been made, in accordance with service complaints regulations made by virtue of section 340C, on the complaint or the complaint to which the allegation of maladministration relates, and
  - (b) if the decision is one in respect of which service complaints regulations made by virtue of section 340D enable an appeal to be made, an appeal against the decision has been made and determined.
- [ A decision on a service complaint is not to be taken to fall within subsection (5)(b) if <sup>F2</sup>(5A) the complainant does not have grounds (of which the complainant is aware) on which the complainant is entitled to bring an appeal against the decision.]
- (6) The purpose of an investigation is—
- (a) in the case of an investigation under subsection (1)(a), to decide whether the complaint is well-founded and, if so, to consider what redress (if any) would be appropriate;
  - (b) in the case of an investigation under subsection (1)(b), (c) or (d), to decide—
    - (i) whether the allegation is well-founded, and
    - (ii) if so, whether the maladministration or undue delay to which the allegation relates has or could have resulted in injustice being sustained by the complainant.
- (7) The power to carry out an investigation under subsection (1)(a) or (b) includes power to investigate any maladministration in connection with the handling of the service complaint where it becomes apparent to the Ombudsman during the course of an investigation that any such maladministration may have occurred.
- (8) The Secretary of State may by regulations provide that an application in respect of a service complaint that has been finally determined may not be made to the Ombudsman, except in circumstances specified in the regulations, after the end of the period specified in the regulations.
- (9) The period referred to in subsection (8) must be at least [<sup>F3</sup>two] weeks beginning with the [<sup>F4</sup>relevant date (see subsection (9A))].
- [ For the purposes of subsection (9) “the relevant date” in relation to a service complaint <sup>F5</sup>(9A) that has been finally determined is—
- (a) where the service complaint falls within subsection (5)(b), the date on which the complainant is notified of the determination of the appeal;

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- (b) where the decision on the service complaint does not fall within subsection (5)(b)—
  - (i) if the conditions in subsection (9B) are met, the date of the final invalidity decision;
  - (ii) otherwise, the date of the decision on the service complaint.
- (9B) The conditions mentioned in subsection (9A)(b)(i) are that—
  - (a) the complainant brings an appeal against the decision on the service complaint;
  - (b) the Defence Council decides that the appeal cannot be proceeded with because (and only because) it was not brought on a valid ground;
  - (c) on any review of that decision of the Defence Council in accordance with regulations made by virtue of section 340D(6)(aa), the decision is upheld.
- (9C) In subsection (9A)(b) “the date of the final invalidity decision” means—
  - (a) if the complainant does not apply for a review by the Service Complaints Ombudsman of the decision mentioned in subsection (9B)(b), the date on which the Defence Council notifies the complainant of that decision;
  - (b) if the complainant does apply for such a review, the date on which the Service Complaints Ombudsman notifies the complainant that the appeal cannot be proceeded with because it was not brought on a valid ground.]
- (10) It is for the Ombudsman to determine whether an application has been made in accordance with this section.
- (11) Where the Ombudsman has carried out an investigation under subsection (1)(a) or (b) in relation to a service complaint, the Ombudsman may not investigate a subsequent application relating to the same complaint except in circumstances specified in regulations made by the Secretary of State.]

#### Textual Amendments

- F1** Pt. 14A inserted (1.1.2016) by [Armed Forces \(Service Complaints and Financial Assistance\) Act 2015 \(c. 19\)](#), **ss. 2(1)**, 7(1); S.I. 2015/1957, reg. 2 (with savings and transitional provisions in S.I. 2015/1969)
- F2** [S. 340H\(5A\)](#) inserted (1.5.2022 for specified purposes, 15.6.2022 in so far as not already in force) by [Armed Forces Act 2021 \(c. 35\)](#), **ss. 10(7)**, 24(1); S.I. 2022/471, reg. 2(d); S.I. 2022/625, reg. 2
- F3** Word in [s. 340H\(9\)](#) substituted (1.5.2022 for specified purposes, 15.6.2022 in so far as not already in force) by [Armed Forces Act 2021 \(c. 35\)](#), **ss. 10(8)(a)**, 24(1); S.I. 2022/471, reg. 2(d); S.I. 2022/625, reg. 2
- F4** Words in [s. 340H\(9\)](#) substituted (1.5.2022 for specified purposes, 15.6.2022 in so far as not already in force) by [Armed Forces Act 2021 \(c. 35\)](#), **ss. 10(8)(b)**, 24(1); S.I. 2022/471, reg. 2(d); S.I. 2022/625, reg. 2
- F5** [S. 340H\(9A\)-\(9C\)](#) inserted (1.5.2022 for specified purposes, 15.6.2022 in so far as not already in force) by [Armed Forces Act 2021 \(c. 35\)](#), **ss. 10(9)**, 24(1); S.I. 2022/471, reg. 2(d); S.I. 2022/625, reg. 2

**Changes to legislation:**

Armed Forces Act 2006, Section 340H is up to date with all changes known to be in force on or before 16 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

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**Changes and effects yet to be applied to :**

- specified provision(s) transitional provisions for effects of commencing SI 2009/812 by [S.I. 2009/1059](#) Order

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Pt. 12A applied (with modifications) by S.I. 2009/1059, art. 106A (as inserted) by [S.I. 2024/619](#) reg. 44(2)
- Pt. 12A inserted by [2016 c. 21](#) s. 7
- Pt. 16B inserted by [2023 c. 48](#) s. 1
- s. 50(2)(ca) inserted by [2011 c. 18 Sch. 4 para. 3\(3\)](#) (This amendment not applied to [legislation.gov.uk](#). Sch. 4 para. 3(3) repealed (8.3.2015) without ever being in force by [2014 c. 12](#), Sch. 11 para. 82(2); S.I. 2015/373, art. 2(g)(ii))
- s. 209(8) inserted by [2021 c. 11 Sch. 13 para. 41\(3\)](#)
- s. 213(3A) words inserted by [2021 c. 11 Sch. 13 para. 41\(6\)](#)
- s. 218A(6A) inserted by Sch. 26 para. 12(1)(db) (as inserted) by [S.I. 2020/1520](#) reg. 6(2)(b)
- s. 218A(6A) words omitted by virtue of [2020 c. 17](#), Sch. 26 para. 12(1)(dc) (as inserted) by [S.I. 2020/1520](#) reg. 6(2)(b)
- s. 219A(1)(d)(i) omitted by virtue of [2020 c. 17](#), Sch. 26 para. 14(a)(i) (as substituted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(b\)](#)
- s. 219A(1)(d)(iii) omitted by virtue of [2020 c. 17](#), Sch. 26 para. 14(a)(i) (as substituted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(b\)](#)
- s. 219A(1)(da) inserted by [2021 c. 11 Sch. 13 para. 41\(7\)](#)
- s. 219A(1)(da)(i) omitted by virtue of [2020 c. 17](#), Sch. 26 para. 14(a)(ii) (as substituted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(b\)](#)
- s. 219A(2A) inserted by [2020 c. 17](#), Sch. 26 para. 14(bb) (as inserted) by [S.I. 2020/1520](#) reg. 6(3)
- s. 219ZA inserted by [2021 c. 11 Sch. 8 para. 2](#)
- s. 219ZA(1)(e) words omitted by virtue of [2020 c. 17](#), Sch. 26 para. 13A(a) (as inserted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(a\)](#)
- s. 219ZA(4)-(6) omitted by virtue of [2020 c. 17](#), Sch. 26 para. 13A(b) (as inserted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(a\)](#)
- s. 219ZA(7) words omitted by virtue of [2020 c. 17](#), Sch. 26 para. 13A(c) (as inserted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(a\)](#)
- s. 223(1A) inserted by [2021 c. 11 Sch. 13 para. 41\(8\)\(a\)](#)
- s. 224A(1)(d)(iii) and word inserted by [2021 c. 11 Sch. 13 para. 41\(9\)\(a\)\(ii\)](#)
- s. 224A(1)(d)(iii) words substituted by [2020 c. 17](#), Sch. 26 para. 15(a)(iii) (as inserted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(c\)](#)
- s. 224A(1A) inserted by [2021 c. 11 Sch. 8 para. 8\(4\)](#)
- s. 224A(3A) inserted by [2021 c. 11 Sch. 13 para. 41\(9\)\(b\)](#)
- s. 224B inserted by [2021 c. 11 Sch. 8 para. 9](#)
- s. 225(1A) inserted by [2020 c. 17](#), Sch. 26 para. 15A (as inserted) by [S.I. 2020/1520](#) reg. 6(4)
- s. 226(1A) inserted by [2020 c. 17](#), Sch. 26 para. 15B (as inserted) by [S.I. 2020/1520](#) reg. 6(4)
- s. 227(3)(a)(b) substituted for words by [2021 c. 11 Sch. 13 para. 41\(10\)](#)
- s. 238(6)(a) word omitted by [2021 c. 11 Sch. 13 para. 41\(11\)\(a\)](#)

- s. 238(6)(b) word substituted by [2021 c. 11 Sch. 13 para. 41\(11\)\(c\)](#)
- s. 238(6)(aa) inserted by [2021 c. 11 Sch. 13 para. 41\(11\)\(b\)](#)
- s. 239(3A)(3B) inserted by [2021 c. 11 Sch. 8 para. 3](#)
- s. 239(3A) words omitted by virtue of 2020 c. 17, Sch 26 para. 18(a)(i) (as inserted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(d\)](#)
- s. 239(3A) words omitted by virtue of 2020 c. 17, Sch 26 para. 18(a)(ii) (as inserted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(d\)](#)
- s. 239(3B) words omitted by virtue of 2020 c. 17, Sch 26 para. 18(b) (as inserted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(d\)](#)
- s. 260(1)(ca) inserted by [2021 c. 11 Sch. 13 para. 41\(14\)\(a\)\(ii\)](#)
- s. 260(1)(ca) words omitted by virtue of 2020 c. 17, Sch. 26 para. 19(a)(iia) (as inserted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(e\)\(i\)](#)
- s. 260(4B)(a) words omitted by virtue of 2020 c. 17, Sch. 26 para. 19(b)(ii) (as substituted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(e\)\(ii\)](#)
- s. 260(4B)(za) inserted by [2021 c. 11 Sch. 13 para. 41\(14\)\(b\)](#)
- s. 260(4B)(za) words omitted by virtue of 2020 c. 17, Sch. 26 para. 19(b)(i) (as substituted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(e\)\(ii\)](#)
- s. 261(1)(ba) inserted by [2021 c. 11 Sch. 13 para. 41\(15\)](#)
- s. 261(1)(ba) words omitted by virtue of 2020 c. 17, Sch. 26 para. 20(c) (as inserted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(f\)](#)
- s. 261A(3)(a) words in s. 261A(3) renumbered as s. 261A(3)(a) by [2021 c. 11 Sch. 8 para. 4\(a\)](#)
- s. 261A(3)(b)(c) inserted by [2021 c. 11 Sch. 8 para. 4\(b\)](#)
- s. 261A(3)(b) words omitted by virtue of 2020 c. 17, Sch. 26 para. 20A(a) (as inserted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(g\)](#)
- s. 261A(3)(c)(i) words omitted by virtue of 2020 c. 17, Sch. 26 para. 20A(b) (as inserted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(g\)](#)
- s. 262A(2A) inserted by [2021 c. 11 Sch. 13 para. 41\(16\)\(a\)](#)
- s. 262A(2A)(b) omitted by virtue of 2020 c. 17, Sch. 26 para. 21(a) (as substituted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(h\)](#)
- s. 262A(3A) inserted by [2021 c. 11 Sch. 13 para. 41\(16\)\(b\)](#)
- s. 262A(3A) omitted by virtue of 2020 c. 17, Sch. 26 para. 21(b) (as substituted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(h\)](#)
- s. 262A(4) words inserted by [2021 c. 11 Sch. 13 para. 41\(16\)\(c\)\(i\)](#)
- s. 262A(4) words inserted by [2021 c. 11 Sch. 13 para. 41\(16\)\(c\)\(ii\)](#)
- s. 262A(4) words omitted by virtue of 2020 c. 17, Sch. 26 para. 21(c) (as substituted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(h\)](#)
- s. 270A270B inserted by [2008 c. 4 Sch. 25 para. 27](#) (This amendment not applied to legislation.gov.uk. Sch. 25 para. 26(3)(4) repealed (2.4.2012) by 2011 c. 18, Sch. 3 para. 20(3), Sch. 5; S.I. 2012/669, art. 4(d)(f) (with art. 13))
- s. 270B(6)(aa) inserted by [2009 c. 25 Sch. 17 para. 9\(2\)](#) (This amendment not applied to legislation.gov.uk. Sch. 17 para. 9 repealed (2.4.2012) without ever being in force by 2011 c. 18, Sch. 5; S.I. 2012/669, art. 4(f))
- s. 270B(10) word repealed by [2009 c. 25 Sch. 23 Pt. 5](#)
- s. 270B(10)(a) words inserted by [2009 c. 25 Sch. 17 para. 9\(3\)\(a\)](#) (This amendment not applied to legislation.gov.uk. Sch. 17 para. 9 repealed (2.4.2012) without ever being in force by 2011 c. 18, Sch. 5; S.I. 2012/669, art. 4(f))
- s. 270B(10)(b) words substituted by [2009 c. 25 Sch. 17 para. 9\(3\)\(b\)](#) (This amendment not applied to legislation.gov.uk. Sch. 17 para. 9 repealed (2.4.2012) without ever being in force by 2011 c. 18, Sch. 5; S.I. 2012/669, art. 4(f))
- s. 270B(10)(c)-(e) inserted by [2009 c. 25 Sch. 17 para. 9\(3\)\(c\)](#) (This amendment not applied to legislation.gov.uk. Sch. 17 para. 9 repealed (2.4.2012) without ever being in force by 2011 c. 18, Sch. 5; S.I. 2012/669, art. 4(f))
- s. 304B inserted by [2016 c. 21 s. 8](#)
- s. 304C inserted by [2016 c. 21 s. 9](#)
- s. 304C(5A) inserted by [2021 c. 11 Sch. 8 para. 5](#)
- s. 304C(5A) words omitted by virtue of 2020 c. 17, Sch. 26 para. 24A(a) (as inserted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(i\)](#)

- s. 304C(5A) words substituted by 2020 c. 17, Sch. 26 para. 24A(b) (as inserted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(i\)](#)
- s. 304F-304H inserted by [2016 c. 21 s. 12](#)
- s. 377(8) inserted by 2020 c. 17, Sch. 26 para. 26 (as inserted) by [S.I. 2020/1520 reg. 6\(5\)](#)
- Sch. 7 para. 9(A1) inserted by [2020 c. 9 Sch. 2 para. 123\(8\)\(a\)](#) (This pre-consolidation amendment comes into force immediately before the consolidation date on 1.12.2020 (see 2020 c. 9, ss. 3, 5(2)(3) and 2020 c. 17, ss. 2, 416) to facilitate the sentencing consolidation and then is repealed immediately afterwards on 1.12.2020 by the Sentencing Act 2020 (c. 17), Sch. 28; S.I. 2020/1236, reg. 2)