



National Health Service Reorganisation Act 1973

1973 CHAPTER 32

PART III

THE HEALTH SERVICE COMMISSIONERS FOR ENGLAND AND FOR WALES

35 Provisions relating to complaints

- (1) A complaint under this Part of this Act may be made by any individual, or by any body of persons whether incorporated or not, not being—
 - (a) a local authority or other authority or body constituted for purposes of the public service or of local government or for the purposes of carrying on under national ownership any industry or undertaking or part of an industry or undertaking;
 - (b) any other authority or body whose members are appointed by Her Majesty or any Minister of the Crown or government department, or whose revenues consist wholly or mainly of money provided by Parliament.
- (2) Where the person by whom a complaint might have been made under the preceding provisions of this Part of this Act has died or is for any reason unable to act for himself, the complaint may be made by his personal representative or by a member of his family or by some body or individual suitable to represent him; but except as aforesaid and as provided by subsection (5) of this section a complaint shall not be entertained under this Part of this Act unless made by the person aggrieved himself.
- (3) A complaint shall not be entertained under this Part of this Act by a Commissioner unless it is made in writing to him by or on behalf of the person aggrieved not later than one year from the day on which the person aggrieved first had notice of the matters alleged in the complaint; but a Commissioner may conduct an investigation pursuant to a complaint not made within that period if he considers it reasonable to do so.
- (4) Before proceeding to investigate a complaint a Commissioner shall satisfy himself that the complaint has been brought by or on behalf of the person aggrieved to

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the notice of the relevant body in question and that that body has been afforded a reasonable opportunity to investigate and reply to the complaint; but a Commissioner shall disregard the preceding provisions of this subsection in relation to a complaint made by an officer of the relevant body in question on behalf of the person aggrieved if the officer is authorised by virtue of subsection (2) of this section to make the complaint and the Commissioner is satisfied that in the particular circumstances those provisions ought to be disregarded.

- (5) Notwithstanding anything in the preceding provision of this section, a relevant body—
- (a) may itself (excluding its officers) refer to a Commissioner a complaint that a person has, in consequence of a failure or maladministration for which the body is responsible, sustained such injustice or hardship as is mentioned in section 34(3) of this Act if the complaint—
 - (i) is made in writing to the relevant body by that person or by a person authorised by virtue of subsection (2) of this section to make the complaint to the Commissioner on his behalf, and
 - (ii) is so made not later than one year from the day mentioned in subsection (3) of this section or within such other period as the Commissioner considers appropriate in any particular case ; but
 - (b) shall not be entitled to refer a complaint in pursuance of the preceding paragraph after the expiration of three months beginning with the day on which the body received the complaint;

and a complaint referred to a Commissioner in pursuance of this subsection shall, subject to section 34(7) of this Act, be deemed to be duly made to him under this Part of this Act.