



Armed Forces Act 2006

2006 CHAPTER 52

[^{F1}PART 14A

REDRESS OF SERVICE COMPLAINTS

[^{F1}Decisions and appeals

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)

340C Decisions on service complaints

- (1) Service complaints regulations must provide for the Defence Council to decide, in the case of a service complaint that is found to be admissible, whether the complaint is to be dealt with—
 - (a) by a person or panel of persons appointed by the Council, or
 - (b) by the Council themselves.
- (2) The regulations must provide for the person or panel appointed to deal with the complaint or (in a subsection (1)(b) case) the Defence Council—
 - (a) to decide whether the complaint is well-founded, and
 - (b) if the decision is that the complaint is well-founded—
 - (i) to decide what redress (if any), within the authority of (as the case may be) the person, the persons on the panel or the Defence Council would be appropriate, and
 - (ii) to grant any such redress.
- (3) The Defence Council must not appoint a person or panel to deal with a service complaint unless—

Status: Point in time view as at 19/05/2020.

Changes to legislation: Armed Forces Act 2006, Cross Heading: Decisions and appeals is up to date with all changes known to be in force on or before 18 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)

- (a) the person is, or all the persons on the panel are, authorised by the Council to decide the matters mentioned in subsection (2) and to grant appropriate redress, or
 - (b) the Council propose to authorise that person or those persons for those purposes.
- (4) Provision made by virtue of subsection (1) is subject to regulations made under section 340E(1) (eligibility for appointment, requirements relating to independent decision-making, etc).

340D Appeals

- (1) Service complaints regulations must make provision enabling the complainant in relation to a service complaint to appeal to the Defence Council against a decision on the complaint, where the decision was taken by a person or panel appointed by virtue of section 340C(1)(a).
- (2) The regulations may make provision—
- (a) about the way in which an appeal is to be brought (including about the information to be provided by the complainant);
 - (b) that an appeal may not be brought, except in circumstances specified in the regulations, after the end of the period so specified;
 - (c) requiring the Defence Council to decide any question relating to whether an appeal has been brought before the end of the period referred to in paragraph (b) or (if not) whether circumstances referred to in that paragraph apply;
 - (d) requiring the Defence Council to decide whether an appeal is to be determined—
 - (i) by a person or panel of persons appointed by the Council, or
 - (ii) by the Council themselves.
- (3) The period referred to in subsection (2)(b) must be at least six weeks beginning with the day on which the complainant received notification of the decision appealed against.
- (4) The Defence Council must not appoint a person or panel to determine an appeal unless—
- (a) the person is, or all the persons on the panel are, authorised by the Council to determine the appeal and to grant appropriate redress, or
 - (b) the Council propose to authorise that person or those persons for those purposes.
- (5) Provision made by virtue of subsection (2)(d) is subject to regulations made under section 340E(1) (eligibility for appointment, requirements relating to independent decision-making, etc).
- (6) Service complaints regulations must make provision—
- (a) for the Service Complaints Ombudsman, on an application by the complainant, to review a decision by the Defence Council that an appeal cannot be proceeded with because—
 - (i) it was not brought before the end of the period referred to in subsection (2)(b), and

Status: Point in time view as at 19/05/2020.

Changes to legislation: Armed Forces Act 2006, Cross Heading: Decisions and appeals is up to date with all changes known to be in force on or before 18 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)

- (ii) the case is not one in which circumstances referred to in that provision apply;
- (b) for securing that the decision of the Ombudsman, on such a review, is binding on the complainant and the Defence Council.

340E Further provision about persons and panels deciding service complaints etc

- (1) The Secretary of State may by regulations—
 - (a) provide that persons of a specified description may not be appointed by virtue of section 340C(1)(a) or 340D(2)(d) (whether or not as part of a panel);
 - (b) require the Defence Council, in relation to any service complaint of a specified description, to act by virtue of section 340C(1)(a) or 340D(2)(d) so as to appoint—
 - (i) a person who is independent, or of a specified description, or both;
 - (ii) a panel that satisfies one or more of the requirements listed in subsection (2).
- (2) Those requirements are—
 - (a) all of the members of the panel must be independent;
 - (b) the panel must include at least a specified number or proportion of independent members;
 - (c) the panel must include a person of a specified description.
- (3) Where a requirement within subsection (2)(b) has effect, the regulations may also require specified functions of the panel to be exercised by the independent members of the panel.
- (4) For the purposes of this section, a person (including a member of a panel) is independent if the person—
 - (a) is not a member of the regular or reserve forces or employed in the civil service of the State, and
 - (b) is included in a list maintained for the purposes of this section by the Secretary of State.
- (5) In this section, “specified” means specified in the regulations.]

Status:

Point in time view as at 19/05/2020.

Changes to legislation:

Armed Forces Act 2006, Cross Heading: Decisions and appeals is up to date with all changes known to be in force on or before 18 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.