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STATUTORY INSTRUMENTS

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**2015 No. 1969**

**The Armed Forces (Service Complaints and  
Financial Assistance) Act 2015 (Transitional  
and Savings Provisions) Regulations 2015**

**PART 2**

**Pre-commencement complaints: continuation of the old complaints  
provisions and application of the Ombudsman provisions**

**Pre-commencement complaints where there has been two decisions on the complaint**

**4.—**(1) Sections 334 to 336A and 338, and provisions made under them, continue to have effect in relation to a pre-commencement complaint where before the commencement date—

- (a) a prescribed officer has referred the complaint to a superior officer under old regulation 21(c) (referral following a first substantive decision by the prescribed officer); and
- (b) the superior officer has notified the complainant of his or her decision under old regulation 24.

(2) Paragraph (1) does not apply to a finalised complaint.

(3) A complaint to which paragraph (1) applies is referred to in these Regulations as “a Part 2 complaint”.

(4) In its application to a communication purporting to relate to a Part 2 complaint, old regulation 19(b) (further communications amounting to a new complaint) applies as if—

- (a) the reference to “these Regulations” were to the new regulations; and
- (b) the reference to “a new service complaint” were to a service complaint within the meaning of section 340A.

**Provisions about the Ombudsman applicable to Part 2 complaints**

**5.—**(1) In its application to a Part 2 complaint, regulation 3 of the Armed Forces (Service Complaints Commissioner) Regulations 2007<sup>(1)</sup> applies as if the reference to notifying the Service Complaints Commissioner were to notifying the Service Complaints Ombudsman.

(2) Paragraphs (3) to (7) apply if—

- (a) a complainant has applied under old regulation 25(a) for a Part 2 complaint to be referred to the Defence Council; and
- (b) the superior officer has refused to refer the complaint to the Defence Council under old regulation 25(c).

(3) The complainant may apply to the Ombudsman for a review of the decision of the superior officer.

(4) The Ombudsman must decide whether the complaint must be referred to the Defence Council by the superior officer under old regulation 25(c) and must notify both the superior officer and the complainant in writing of his or her decision, giving reasons.

(5) The decision of the Ombudsman is binding on the complainant and the superior officer.

(6) The Ombudsman must not consider an application under paragraph (3) made after a period of four weeks beginning with the day the complainant received notification of the decision of the superior officer.

(7) Paragraph (6) does not apply if the Ombudsman considers it is just and equitable to allow the complainant to apply after that period.

(8) Sections 340H to 340M (investigations by the Ombudsman and reports on investigations), and provisions made under them, apply to a Part 2 complaint as if it were a service complaint made under section 340A.

(9) In its application by virtue of paragraph (8), section 340H(5) applies as if there were substituted—

“(5) For the purposes of this section, a service complaint has been finally determined where the Defence Council (or a service complaint panel to which the Defence Council delegated the making of the decision) have decided under section 334(7) and (8) whether the complaint is well-founded (and, if so, the appropriate redress).”

(10) In its application by virtue of paragraph (8), regulation 3 of the Armed Forces (Service Complaints Ombudsman Investigations) Regulations 2015(2) applies as if—

(a) for paragraph (2)(a), there were substituted—

“(a) those aspects which the complainant disagrees with of a decision made under section 334(7) and (8) (including where that decision was taken by a service complaint panel to which the Defence Council delegated the decision) as to whether the service complaint was well founded, and, if so, the appropriate redress, or of a decision for the purposes of regulations made under section 340M(5) (reconsideration of a service complaint);” and

(b) for paragraph (5), there were substituted—

“(5) If the application asks for an investigation under section 340H(1)(a) or (b), the complainant must attach to the application a copy of any decision made under section 334(7) and (8) (including where that decision was taken by a service complaint panel to which the Defence Council delegated the decision), as to whether the complaint is well founded and, if so, the appropriate redress, or of any related decision for the purposes of regulations made under section 340M(5).”