

---

STATUTORY INSTRUMENTS

---

**2015 No. 1969**

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

**PART 4**

**Additional transitional and savings provisions**

**Applications to the Ombudsman to investigate in relation to finalised complaints made by officers where there has been a Defence Council decision**

**13.**—(1) This regulation applies in relation to a finalised complaint of the type described in regulation 3(1)(d) of these Regulations (decision made by the Defence Council, or a service complaint panel, notified to the complainant) made by a section 337 complainant.

(2) The complainant may make an application to the Service Complaints Ombudsman for there to be an investigation under section 340H(1)(a), (b) or (d) in relation to the complaint.

(3) Sections 340H to 340M (investigations by the Ombudsman and reports on investigations), and provisions made under them, apply in relation to an application made under paragraph (2) as if that application were made in respect of a Part 2 complaint (this paragraph is subject to paragraph (4)).

(4) Regulation 4 of the Armed Forces (Service Complaints Ombudsman Investigations) Regulations 2015 (time limits for making an application to the Ombudsman) does not apply to a complaint to which this regulation applies.

**Reference of grievances to Her Majesty in relation to complaints by officers**

**14.**—(1) This regulation applies in relation to a—

- (a) a Part 2 complaint made by a section 337 complainant;
- (b) a Part 3 complaint made by a section 337 complainant; or
- (c) a finalised complaint to which regulation 13 of these Regulations applies.

(2) Section 337 continues to have effect and a reference to a service complaint in section 337 is to the pre-commencement complaint in question.

(3) If a complainant has made an application to the Defence Council under section 337(4), he or she must not make an application to the Service Complaints Ombudsman for there to be an investigation under section 340H(1) in relation to the same complaint.

(4) If a complainant has made an application to the Ombudsman for there to be an investigation under section 340H(1)(a) or (b), he or she must not make an application to the Defence Council under section 337(4) in relation to the same complaint.

(5) In its application to a Part 3 complaint, section 337(3) applies as if there were substituted—

“(3) Condition B is that the service complaint has been finally determined (within the meaning of section 340H(5)).”

### **Allegations under section 338 to be treated as allegations under section 340N**

15.—(1) Where, immediately before the commencement date, the Service Complaints Commissioner has under consideration the question of whether to refer an allegation to the relevant officer under section 338(2), the Service Complaints Ombudsman is to consider whether to refer the allegation to the appropriate officer under section 340N(1).

(2) Paragraph (3) applies where immediately before the commencement date—

(a) the Commissioner has referred an allegation to the relevant officer under section 338(2); but

(b) the officer has not ascertained whether the person named in the communication in which the allegation is contained wishes to make a service complaint.

(3) The allegation is to be treated as an allegation referred by the Ombudsman to the appropriate officer under section 340N(1).

(4) In relation to an allegation to which paragraph (3) applies, the requirements in section 340N(3) (a) and (b) (steps to be taken by the appropriate officer following the referral of an allegation) are to be treated as having been complied with to the extent that the relevant officer complied with the equivalent provisions in section 338(3)(a) and (b) before the commencement date.

### **Annual report for 2015**

16.—(1) The Service Complaints Ombudsman must prepare an annual report under section 340O(1) for the calendar year 2015.

(2) In its application to the preparation of the report for 2015, section 340O(2) applies as if—

(a) the reference to the system for dealing with service complaints in subsection (2)(a) were to the system for dealing with service complaints under the old complaints provisions; and

(b) for subsection (2)(b), there were substituted—

“(b) the exercise by the Commissioner during that year of the Commissioner’s functions under Part 14.”.

### **Transfer of property, rights and obligations from the Commissioner to the Ombudsman**

17. The property, rights and liabilities of the Service Complaints Commissioner immediately before the commencement date transfer to the Service Complaints Ombudsman.

### **Consequential amendments and revocations made by the Armed Forces (Service Complaints and Financial Assistance) Act 2015**

18.—(1) The amendments and revocations made by section 3 of, and the Schedule to, the Armed Forces (Service Complaints and Financial Assistance) Act 2015 (“the 2015 Act”) are of no effect in relation to a pre-commencement complaint.

(2) Paragraph (1) does not apply in relation to a Part 3 complaint.

(3) Paragraph (1) does not apply in relation to—

(a) the amendment made to the House of Commons Disqualification Act 1975(1); or

(b) the insertion in section 374, by paragraph 11(b) of the Schedule to the 2015 Act, of a definition for the Service Complaints Ombudsman.