



Armed Forces Act 2021

2021 CHAPTER 35

Service police: complaints, misconduct etc

11 Service police: complaints, misconduct etc

- (1) AFA 2006 is amended as follows.
- (2) In Part 18, after section 365B insert—

“Service Police Complaints Commissioner

365BA Service Police Complaints Commissioner

- (1) There is to be a Service Police Complaints Commissioner.
- (2) The Commissioner is to have the functions conferred on the Commissioner by or under this Act or any other enactment.
- (3) Schedule 14A makes further provision with respect to the Commissioner.

365BB Investigating officers

- (1) The Service Police Complaints Commissioner may appoint persons to be investigating officers.
 - (2) An investigating officer holds and vacates office in accordance with the terms of the officer’s appointment.
 - (3) An investigating officer may, unless the Commissioner otherwise directs, exercise any function of the Commissioner.”
- (3) After Part 14A insert—

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“PART 14B

SERVICE POLICE: COMPLAINTS, MISCONDUCT ETC

Functions of the Service Police Complaints Commissioner

340P Complaints, misconduct etc

- (1) The Secretary of State may by regulations make, in relation to the Service Police Complaints Commissioner (established under section 365BA), service police forces and the tri-service serious crime unit, provision corresponding (with or without modifications) to any provision of or made under Part 2 of the Police Reform Act 2002 (complaints and misconduct) except for section 19 of that Act (but see subsections (4) to (6)).
- (2) For the purposes of [subsection \(1\)](#), section 105(5) of the Police Reform Act 2002 (power to provide for matters to be determined by Director General of the Independent Office for Police Conduct) is treated as included in Part 2 of that Act.
- (3) If regulations under [subsection \(1\)](#) include provision corresponding (with or without modifications) to section 10(5) of the Police Reform Act 2002 (general functions of Director General), the regulations may also provide for subsection (2D) of section 54 of the Police Act 1996 (functions of inspectors of constabulary) to apply (with or without modifications) in relation to the Service Police Complaints Commissioner as that subsection applies in relation to the Director General of the Independent Office for Police Conduct.
- (4) The Secretary of State may by regulations make such provision as the Secretary of State thinks appropriate for the purpose of authorising—
 - (a) the use of directed and intrusive surveillance, and
 - (b) the conduct and use of covert human intelligence sources,
 for the purposes of, or for purposes connected with, the carrying out of the Service Police Complaints Commissioner’s functions.
- (5) Regulations under [subsection \(4\)](#) may, for the purposes of or in connection with any such provision as is mentioned in [subsection \(4\)](#), make amendments that the Secretary of State thinks appropriate to—
 - (a) Parts 2 and 4 of the Regulation of Investigatory Powers Act 2000 (surveillance and covert human intelligence sources and scrutiny of investigatory powers), and
 - (b) Part 3 of the Police Act 1997 (authorisations in respect of property).
- (6) Expressions used in this section and in Part 2 of the Regulation of Investigatory Powers Act 2000 have the same meanings in this section as in that Part.

340Q Investigation of concerns raised by whistle-blowers

- (1) The Secretary of State may by regulations make, in relation to the Service Police Complaints Commissioner, service police forces and the tri-service

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serious crime unit, provision corresponding (with or without modifications) to any provision of or made under Part 2B of the Police Reform Act 2002 (investigation of concerns raised by whistle-blowers).

- (2) For the purposes of this section, section 105(5) of the Police Reform Act 2002 (power to provide for matters to be determined by Director General of the Independent Office for Police Conduct) is treated as included in Part 2B of that Act.

Super-complaints

340R Power to make super-complaints

- (1) The Secretary of State may by regulations make, in relation to policing by one or more than one relevant body, provision corresponding (with or without modifications) to any provision of or made under Part 2A of the Police Reform Act 2002 (super-complaints).
- (2) In subsection (1) “relevant body” means a service police force or the tri-service serious crime unit.”
- (4) In section 373 (orders, regulations and rules), in subsection (3), after paragraph (eb) insert—
- “(ec) the first regulations under each of sections 340P(1), 340Q and 340R,
(ed) regulations under section 340P(3),”.
- (5) Schedule 4 contains further provision about service police complaints, misconduct etc.

Commencement Information

- I1** S. 11 not in force at Royal Assent, see [s. 24\(1\)](#)
- I2** [S. 11](#) in force at 1.11.2022 for specified purposes by [S.I. 2022/1095, reg. 3](#)
- I3** [S. 11](#) in force at 20.2.2023 for specified purposes by [S.I. 2023/158, reg. 4](#)
- I4** [S. 11](#) in force at 19.6.2023 in so far as not already in force by [S.I. 2023/621, reg. 2](#)

12 Framework for establishment of tri-service serious crime unit

- (1) AFA 2006 is amended as follows.
- (2) In section 365A (Provost Marshals: appointment), in subsection (1), after “force” insert “, or to be Provost Marshal for serious crime,”.
- (3) In section 115A (Provost Marshal’s duty in relation to independence of investigations) —
- (a) in subsection (1), for “This section” substitute “Subsection (2)”;
(b) after subsection (2) insert—
- “(2A) The Provost Marshal for serious crime has a duty, owed to the Defence Council, to seek to ensure that all investigations carried out by the tri-service serious crime unit are free from improper interference.”;
- (c) in subsection (3), at the end insert “or (as the case may be) the unit.”
- (4) In section 375 (definitions relating to police forces)—

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- (a) in the heading, after “to” insert “the service police and other”;
- (b) after subsection (1) insert—

“(1A) In this Act the “tri-service serious crime unit” means a unit under the direction of the Provost Marshal for serious crime, each member of which is a member of a service police force.”

- (5) Schedule 5 makes further provision about the tri-service serious crime unit and the Provost Marshal for serious crime.
- (6) The Secretary of State may by regulations made by statutory instrument make such provision amending or revoking any provision of subordinate legislation made before the passing of this Act as appears to the Secretary of State to be appropriate in consequence of any provision of this section or Schedule 5.
- (7) Regulations under subsection (6) may include transitional provisions or savings.
- (8) A statutory instrument containing regulations under subsection (6) is subject to annulment in pursuance of a resolution of either House of Parliament.
- (9) In subsection (6) “subordinate legislation” means—
 - (a) subordinate legislation within the meaning of the Interpretation Act 1978,
 - (b) an instrument made under an Act of the Scottish Parliament, or
 - (c) an instrument made under Northern Ireland legislation.

Commencement Information

- I5** S. 12 not in force at Royal Assent, see [s. 24\(1\)](#)
- I6** [S. 12](#) in force at 1.5.2022 for specified purposes by [S.I. 2022/471](#), [reg. 2\(e\)](#)
- I7** [S. 12](#) in force at 5.12.2022 in so far as not already in force by [S.I. 2022/1095](#), [reg. 4](#)

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