

2015 No. 1969

DEFENCE

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

<i>Made</i> - - - -	<i>3rd December 2015</i>
<i>Laid before Parliament</i>	<i>7th December 2015</i>
<i>Coming into force</i> - -	<i>1st January 2016</i>

The Secretary of State makes the following Regulations in exercise of the powers conferred by section 6 of the Armed Forces (Service Complaints and Financial Assistance) Act 2015(a).

PART 1

Preliminary matters

Citation and commencement

1. These Regulations may be cited as the Armed Forces (Service Complaints and Financial Assistance) Act 2015 (Transitional and Savings Provisions) Regulations 2015 and come into force on 1st January 2016.

Interpretation

2.—(1) A reference in these Regulations to a section is, unless stated otherwise, to that section of the Armed Forces Act 2006(b).

(2) A reference in these Regulations to any of the old complaints provisions(c) is, unless the context requires otherwise, to that provision as it had effect immediately before the commencement date.

(3) In these Regulations—

“appropriate officer” has the same meaning as in section 340N(2);

“commencement date” means 1st January 2016;

(a) 2015 c. 19.

(b) 2006 c. 52. Sections 335 and 336 were amended by, and section 336A was inserted by, the Armed Forces Act 2011 (c. 18), section 20. Sections 334 to 339 and 366 are repealed by sections 1(3) and 2(2) of the Armed Forces (Services Complaints and Financial Assistance) Act 2015 (c. 19). Section 1(1) of the 2015 Act inserts section 365B into the 2006 Act and section 2(1) inserts Part 14A (sections 340A to 340O). Section 3 of, and the Schedule to, the 2015 Act amends section 373 and 374 of the 2006 Act and repeals section 20 of the 2011 Act; see in particular paragraphs 9 to 11 and 16 of the Schedule to the 2015 Act. In relation to the commencement of sections 1 to 3 of, and the Schedule to, the 2015 Act, see S.I. 2015/1957.

(c) For the definition of “the old complaints provisions”, see section 6(5) of the Armed Forces (Service Complaints and Financial Assistance) Act 2015 (c. 19).

“complainant” means a person who has made a pre-commencement complaint^(a);

“finalised complaint” has the meaning given in regulation 3 of these Regulations;

“first substantive decision” means a decision, under section 334(7) and (8), as to whether a pre-commencement complaint is well-founded and, if so, the appropriate redress, made by—

(a) a prescribed officer; or

(b) a superior officer to whom the decision was referred under old regulation 12(b) or (d);

“initial decision on subject matter” means a decision by a prescribed officer under old regulation 10(a) as to whether regulations made under section 334(2) (certain matters may not be the subject of a service complaint) apply to any or all of the matters in a statement of complaint delivered under old regulation 6;

“initial decision on timeliness” means a decision by a prescribed officer under old regulation 11(a) as to—

(a) whether the complainant has delivered his or her statement of complaint within the period provided for in old regulations 15 to 17; and

(b) if the statement of complaint was not delivered within that period, whether the service complaint may be made by virtue of old regulation 18 (a service complaint may be made after the end of the period if it is just and equitable to do so);

“new regulations” means the Armed Forces (Service Complaints) Regulations 2015^(b) and “new” immediately before “regulation” indicates that the regulation in question is part of those Regulations;

“old regulations” means the Armed Forces Redress of Individual Grievances (Procedures and Time Limits) Regulations 2007^(c) and “old” immediately before “regulation” indicates that the regulation in question is part of those Regulations;

“Part 2 complaint” has the meaning given in regulation 4(3) of these Regulations;

“Part 3 complaint” has the meaning given in regulation 6(2) of these Regulations;

“prescribed officer” has the same meaning as in old regulation 2(a);

“relevant officer” has the same meaning as in section 338(5);

“section 337 complainant” means a complainant who—

(a) is an officer at the time of the making of the complaint; or

(b) was an officer at the time the matter complained of occurred;

“service complaint” means a complaint made under section 334(1) or section 340A(1) or (2);

“service complaint panel” has the same meaning as in section 335(1);

“the Service Complaints Commissioner” (or “the Commissioner”) means a person appointed under section 366(2);

“the Service Complaints Ombudsman” (or “the Ombudsman”) means a person appointed under section 365B(2);

“specified officer” has the same meaning as in new regulation 2(1);

“statement of complaint” means a statement of complaint delivered under old regulation 6 or made under new regulation 4;

“superior officer” has the same meaning as in old regulation 2(b).

(4) For the purposes of these Regulations, a pre-commencement complaint has been refused at an initial stage if either decision 1 or decision 2, as described in paragraphs (5) and (6) respectively, has been made.

(a) For the definition of “pre-commencement complaint”, see section 6(5) of the Armed Forces (Service Complaints and Financial Assistance) Act 2015 (c. 19).

(b) S.I. 2015/1955.

(c) These Regulations were made on 19th December 2007 by the Defence Council. They are not a statutory instrument.

(5) Decision 1 is an initial decision on subject matter that some or all of the matters in a statement of complaint are matters about which a service complaint may not be made where the refusal (and consequently a reference in these Regulations to the complaint having been refused) refers only to those matters about which a service complaint may not be made.

(6) Decision 2 is an initial decision on timeliness that—

- (a) the statement of complaint was not delivered within the period provided for in old regulations 15 to 17; and
- (b) the complaint may not be made after the end of that period by virtue of old regulation 18.

Finalised complaints

3.—(1) A pre-commencement complaint is finalised if, before the commencement date, it has been—

- (a) withdrawn;
- (b) subject to paragraph (2), refused at an initial stage;
- (c) subject to paragraph (3), refused at a referral stage; or
- (d) the subject of a decision of the Defence Council (or a service complaint panel to which the Defence Council delegated the making of the decision) under section 334(7) and (8) as to—
 - (i) whether the complaint is well-founded; and
 - (ii) if so, the appropriate redress,which has been notified to the complainant.

(2) Paragraph (1)(b) does not apply to a complaint where the complainant was notified of the refusal after 1st October 2015.

(3) Paragraph (1)(c) does not apply to a complaint where the complainant was notified of the refusal after 3rd December 2015.

(4) For the purposes of this regulation, a pre-commencement complaint has been refused at a referral stage if either of the following decisions has been made—

- (a) a decision by the prescribed officer not to refer the complaint to a superior officer or the Defence Council under old regulation 21(c); or
- (b) a decision by the superior officer not to refer the complaint to the Defence Council under old regulation 25(c).

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(a) 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(b) 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

(a) S.I. 2007/3352.

(b) S.I. 2015/1956.

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).”

PART 3

Pre-commencement complaints: application of the new complaints provisions

Pre-commencement complaints treated as made under new complaints provisions

6.—(1) This regulation applies to a pre-commencement complaint other than—

- (a) a Part 2 complaint; or
- (b) a finalised complaint.

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

(3) The new complaints provisions^(a) apply to a Part 3 complaint—

- (a) in the case of a complaint made under section 334(1)(a) (complaint by person subject to service law), as if it were a complaint made under section 340A(1); and
- (b) in the case of a complaint made under section 334(1)(b) (complaint by person who has ceased to be subject to service law), as if it were a complaint made under section 340A(2).

Application of the new complaints provisions to Part 3 complaints

7.—(1) Paragraphs (2) to (14) make provision about the application of the new complaints provisions to a Part 3 complaint.

(2) The statement of complaint delivered under old regulation 6 is to be treated as if it were a statement of complaint made under new regulation 4.

(3) Where an officer has been appointed under regulation 3(b) of the old regulations as the prescribed officer, the appointment has effect as an appointment of the specified officer under new regulation 3(1)(b).

(4) Where an officer has been appointed under regulation 5 of the old regulations as the prescribed officer, the appointment has effect as an appointment of the specified officer under new regulation 3(3).

(5) Old regulations 14 to 18 apply instead of new regulation 6 (period for making a service complaint), with a reference in those regulations to a prescribed officer treated as a reference to the specified officer.

(6) The reference in section 340B(5) (whether a service complaint is not admissible) to regulations under section 340A(4) is to be treated as if it were a reference to regulations made under section 334(2).

(7) New regulation 11 (time limit for appealing against a decision) applies as if, for paragraph (1), there were substituted—

“(1) An appeal under regulation 10(1) against a decision under regulation 9(2)(a) or (b) may be proceeded with if—

(a) the appeal is brought—

- (i) within the period of six weeks beginning with the day on which the complainant received notification under regulation 9(3) of that decision; or

(a) For the definition of “the new complaints provisions”, see section 6(5) of the Armed Forces (Service Complaints and Financial Assistance) Act 2015 (c. 19).

- (ii) within the period of three months beginning with the day on which the matter complained of occurred, or where the matter occurred over a period of time, the day at the end of the period; or
- (b) the appeal is brought after the end of both of the periods mentioned in sub-paragraph (a) but the Defence Council consider it is just and equitable to permit the appeal to be proceeded with.”

(8) In the event that the draft Regulations are made, regulation 5(2) of those Regulations (allegations in relation to which independent persons must be appointed) applies as if, for sub-paragraphs (a) to (f), there were substituted sub-paragraphs (a) to (g) of regulation 9(1) of the Armed Forces (Redress of Individual Grievances) Regulations 2007(a) except that for the purposes of this paragraph—

(a) “alleges” is omitted from sub-paragraphs (a) to (f); and

(b) in sub-paragraph (g)—

(i) “concerns” is omitted; and

(ii) “improper” is inserted between “the” and “exercise”.

(9) Paragraphs (10) to (13) apply to a Part 3 complaint made following a referral by the Service Complaints Commissioner to the relevant officer under section 338(2).

(10) The Armed Forces (Service Complaints Commissioner) Regulations 2007 (“the 2007 Regulations”) continue to have effect for the purpose of making a notification under regulation 3 of those Regulations of an event that happened before the commencement date.

(11) In its application by virtue of paragraph (10), regulation 3 of the 2007 Regulations applies as if the reference to notifying the Commissioner were to notifying the Service Complaints Ombudsman.

(12) In the event that the draft Regulations are made, regulation 6 of those Regulations applies in relation to an occurrence of an event mentioned in that regulation that happens on or after the commencement date as if the complaint had been made following a referral by the Ombudsman to the appropriate officer under section 340N(1).

(13) In the event that the draft Regulations are made, in its application by virtue of paragraph (12), regulation 6 of those Regulations applies as if the requirement to notify imposed on the appropriate officer were a requirement to notify imposed on the relevant officer.

(14) In this regulation, “the draft Regulations” means the Armed Forces (Service Complaints Miscellaneous Provisions) Regulations 2015(b) laid in draft before Parliament under section 373(3) on 28th October 2015 for approval by resolution of each House of Parliament.

Part 3 complaint refused at an initial stage

8.—(1) Paragraphs (2) and (3) apply to a Part 3 complaint that, but for regulation 3(2) of these Regulations (pre-commencement complaints refused at an initial stage after 1st October 2015 are not finalised complaints), would be a finalised complaint because it has been refused at an initial stage before the commencement date.

(2) The refusal is to be treated as if it were a decision made by the specified officer under new regulation 5(1) that the complaint is not admissible.

(3) New regulation 7(2) (time limit for asking the Ombudsman to review a decision that a complaint is not admissible) applies to the complaint as if the reference to four weeks were to three months.

(a) S.I. 2007/3353.

(b) ISBN 9780111140222. The draft Regulations are printed and published by The Stationery Office. They are available on [legislation.gov.uk](http://www.legislation.gov.uk) (link: http://www.legislation.gov.uk/ukdsi/2015/9780111140222/pdfs/ukdsi_9780111140222_en.pdf) or may be purchased from booksellers which sell draft statutory instruments.

Part 3 complaint approved at the initial stage but a first substantive decision has not been notified

9.—(1) Paragraph (2) applies if, before the commencement date, a Part 3 complaint has been approved at the initial stage but the first substantive decision has not been notified to the complainant.

(2) The complaint is to be treated as if it had been referred under new regulation 5(3) to the Defence Council.

(3) For the purposes of this regulation, a Part 3 complaint has been approved at the initial stage if decision 1 and decision 2, as described in paragraphs (4) and (5) respectively, have both been made.

(4) Decision 1 is an initial decision on subject matter that all or some of the matters contained in a statement of complaint are matters about which a service complaint may be made where the approval (and consequently a reference in this regulation to the complaint having been approved) refers only to those matters about which a service complaint may be made.

(5) Decision 2 is an initial decision on timeliness that—

- (a) the statement of complaint was delivered within the period provided for in old regulations 15 to 17; or
- (b) the service complaint may be made after the end of that period by virtue of old regulation 18.

Part 3 complaint where a first substantive decision has been notified but no application for referral has been made

10.—(1) Paragraph (4) applies in relation to a Part 3 complaint if, immediately before the commencement date, condition A or B is satisfied.

(2) Condition A is that—

- (a) the prescribed officer has made a first substantive decision;
- (b) he or she has notified the complainant of that decision; and
- (c) the complainant has not applied under old regulation 21(a) for the complaint to be referred to a superior authority.

(3) Condition B is that—

- (a) the superior officer has made a first substantive decision;
- (b) he or she has notified the complainant of that decision; and
- (c) the complainant has not applied under old regulation 25(a) for the complaint to be referred to the Defence Council.

(4) The decision of the prescribed or superior officer is to be treated as if it were a decision of a person or panel of persons under new regulation 9(2), notified to the complainant under new regulation 9(3).

Part 3 complaint where a first substantive decision has been notified and an application for referral has been made

11.—(1) Paragraphs (4) and (5) apply in relation to a Part 3 complaint if, immediately before the commencement date, condition A or B is satisfied.

(2) Condition A is that—

- (a) the prescribed officer has made a first substantive decision;
- (b) he or she has notified the complainant of that decision;
- (c) the complainant has applied under old regulation 21(a) for the complaint to be referred to a superior authority; and
- (d) the prescribed officer has not decided whether to make the referral.

(3) Condition B is that—

- (a) the superior officer has made a first substantive decision;
- (b) he or she has notified the complainant of that decision;
- (c) the complainant has applied under old regulation 25(a) for the complaint to be referred to the Defence Council; and
- (d) the superior officer has not decided whether to make the referral.

(4) The decision of the prescribed or superior officer mentioned at paragraph (2)(a) or (3)(a) is to be treated as if it were a decision of a person or panel of persons under new regulation 9(2), notified to the complainant under new regulation 9(3).

(5) The application made by the complainant under old regulation 21(a) or 25(a) is to be treated as if it were an appeal under new regulation 10(1) against the decision under new regulation 9(2), in relation to which the Defence Council must decide, under new regulation 11, whether the appeal can be proceeded with.

Part 3 complaint where a first substantive decision has been notified, an application for referral has been made and the prescribed or superior officer has agreed to make the referral

12.—(1) Paragraphs (4) and (5) apply in relation to a Part 3 complaint if, immediately before the commencement date, condition A or B is satisfied.

(2) Condition A is that—

- (a) the prescribed officer has made a first substantive decision;
- (b) he or she has notified the complainant of that decision;
- (c) the complainant has applied under old regulation 21(a) for the complaint to be referred to a superior authority;
- (d) the prescribed officer has agreed to refer the complaint to a superior officer or the Defence Council; and
- (e) the complainant has not been notified of the decision on the complaint by the superior officer or Defence Council (or a service complaint panel to which the Defence Council delegated the decision).

(3) Condition B is that—

- (a) the superior officer has made a first substantive decision;
- (b) he or she has notified the complainant of that decision;
- (c) the complainant has applied under old regulation 25(a) for the complaint to be referred to the Defence Council;
- (d) the superior officer has agreed to refer the complaint to the Defence Council; and
- (e) the complainant has not been notified of the decision on the complaint by the Defence Council (or a service complaint panel to which the Defence Council delegated the decision).

(4) The decision of the prescribed or superior officer mentioned at paragraph (2)(a) or (3)(a) is to be treated as if it were a decision of a person or panel of persons under new regulation 9(2), notified to the complainant under new regulation 9(3).

(5) The application made by the complainant under old regulation 21(a) or 25(a) is to be treated as if it were an appeal under new regulation 10(1) against the decision under new regulation 9(2), in relation to which the Defence Council—

- (a) have decided, under new regulation 11, that the appeal can be proceeded with; and
- (b) must decide, under new regulation 13(1), who is to determine the appeal.

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(a); 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.

3rd December 2015

Mark Lancaster
Parliamentary Under Secretary of State
Ministry of Defence

(a) 1975 (c. 24).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make transitional and savings provisions in connection with the commencement of sections 1 to 3 of the Armed Forces (Service Complaints and Financial Assistance) Act 2015 (c. 19) (“the 2015 Act”). The 2015 Act amends the Armed Forces Act 2006 (c. 52) (“the 2006 Act”) to introduce a new service complaints system.

These Regulations make provision about how complaints that were made under the old complaints provisions (“pre-commencement complaints”) are to be treated on the commencement of the new complaints provisions. They also make provision in connection with the abolition of the office of Service Complaints Commissioner and the establishment of the office of Service Complaints Ombudsman.

Part 1 contains preliminary provisions, including provisions on interpretation. In particular, regulation 3 sets out the meaning of a finalised complaint for the purposes of the Regulations.

Part 2 makes provision in respect of those pre-commencement complaints that are to continue to be considered under the old complaints provisions. Regulation 4 provides for sections 334 to 336A and 338 of the 2006 Act, and provisions made under them, to continue in force in relation to pre-commencement complaints which have not been finalised where both the prescribed officer and the superior officer have made a decision as to whether the complaint is well founded (and, if so, the appropriate redress) which has been notified to the complainant. These are referred to as Part 2 complaints. Regulation 5 sets out the powers of the Ombudsman in relation to Part 2 complaints.

Part 3 makes provision in respect of those pre-commencement complaints that are to be considered under the new complaints provisions. Regulation 6 provides for the new complaints provisions to apply to pre-commencement complaints that are not finalised and not Part 2 complaints. These are referred to as Part 3 complaints. Regulation 7 sets out how the new complaints provisions are to be interpreted in relation to the consideration of those complaints. Regulations 8 to 12 provide for certain things done in relation to Part 3 complaints under the old complaints provisions to be treated as things done under the new complaints provisions.

Part 4 contains further transitional and savings provisions. Regulation 13 provides for the Ombudsman to have powers to investigate finalised complaints which have been the subject of a decision of the Defence Council (or a service complaint panel) where the complainant was an officer at the time of the making of the complaint (or at the time of the matter complained of). Regulation 14 makes provision for section 337 of the 2006 Act, which relates to the seeking of directions from Her Majesty by the Defence Council on individual grievances made by officers (or those who were officers at the time of the matter complained of), to continue to apply to Parts 2 and 3 complaints and those complaints to which regulation 13 applies. It also makes provision about the relationship between the right to make an application under section 337(4) of the 2006 Act and the right to make an application to the Ombudsman under section 340H(1) of the 2006 Act. Regulation 15 sets out how allegations made to the Commissioner, and dealt with under section 338 of the 2006 Act, that have not, prior to the commencement date, resulted in service complaints are to be dealt with. Regulation 16 provides for the Ombudsman to prepare an annual report for 2015. Regulation 17 transfers the Commissioner’s property, rights and liabilities to the Ombudsman. Regulation 18 makes provision on the application of the consequential amendments provided for in section 3 of, and the Schedule to, the 2015 Act to pre-commencement complaints.

The Armed Forces Redress of Individual Grievances (Procedures and Time Limits) Regulations 2007 (referred to in these Regulations as the “old regulations”) are available as Annex D to the Ministry of Defence’s Joint Service Publication, number 831. This is available on www.gov.uk at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/356877/JSP831_Issue3_0.pdf

The Regulations are also available by writing to CDP Secretariat, Service Complaints, Main Building 6 K 37, London, SW1A 2HB.

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