STATUTORY INSTRUMENTS

2015 No. 1956

DEFENCE

The Armed Forces (Service Complaints Ombudsman Investigations) Regulations 2015

Made - - - -	*3rd December 2015*
Laid before Parliament	*7th December 2015*
Coming into force - -	*1st January 2016*

The Secretary of State, in exercise of the powers conferred by sections 340H(4), (8) and (11), 340I(2) and (5) and 340L(5) and (7) of the Armed Forces Act 2006(**1**), makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Armed Forces (Service Complaints Ombudsman Investigations) Regulations 2015 and come into force on 1st January 2016.

Interpretation

2.—(1) In these Regulations—

"the Act" means the Armed Forces Act 2006;

"Ombudsman" means the Service Complaints Ombudsman;

"relevant service matter" has the same meaning as in section 340H(3).

(2) In these Regulations, unless otherwise specified, a reference to a section is a reference to that section of the Act.

(3) The actions specified in paragraph (4) must be carried out by posting or sending electronically to the intended recipient.

(4) The actions specified in this paragraph are—

(a) the complainant making an application to the Ombudsman referred to in regulation 3(1);

(b) the Ombudsman notifying the complainant and the Defence Council under regulation 5(1);

(c) the Ombudsman sending a copy of an application to the Defence Council under regulation 5(3);

(**1**) 2006 c. 52. Sections 340H, 340I and 340L were inserted by section 2(1) of the Armed Forces (Service Complaints and Financial Assistance) Act 2015 c. 19. Section 340H(9) provides for the minimum period of time which must be specified in regulations made under section 340H(8).

(d) the Ombudsman notifying the complainant and the Defence Council under regulation 5(4) or 6(3);

(e) the complainant notifying the Ombudsman under regulation 6(1);

(f) the Ombudsman sending a copy of a notification to the Defence Council under regulation 6(2)(a);

(g) the Ombudsman sending a copy of a draft report under regulation 9(1) or a copy of a report under regulation 9(4);

(h) the Ombudsman sending a certificate to a person under regulation 9(5).

(5) In any provision of these Regulations which applies to an investigation or requested investigation within section 340H(1)(d), a reference to "the complainant" includes a reference to the person who raised the relevant service matter to which the investigation or requested investigation relates.

Provision of information in application to Ombudsman

3.—(1) This regulation applies if a complainant makes an application to the Ombudsman under section 340H.

(2) If the application asks for an investigation within section 340H(1)(a), it must state—

(a) those aspects which the complainant disagrees with of a decision under regulations made for the purposes of section 340C(2) (decision on the service complaint), of a determination of an appeal brought under regulations made for the purposes of section 340D(1) (appeals), or of a decision for the purposes of regulations made under section 340M(5) (reconsideration of a service complaint);

(b) his or her reasons for disagreeing; and

(c) the redress which the complainant considers would be appropriate.

(3) If the application asks for an investigation within section 340H(1)(b), it must state—

(a) the maladministration (including any undue delay) which the complainant alleges occurred in connection with the handling of the complainant's service complaint;

(b) any injustice which the complainant considers he or she has or may have suffered as a result of the alleged maladministration; and

(c) the facts by reference to which maladministration within sub-paragraph (a) and any resulting injustice within sub-paragraph (b) are alleged to have occurred.

(4) If the application asks for an investigation within section 340H(1)(c) or (d), it must state—

(a) the undue delay which the complainant alleges occurred in connection with the handling of the complainant's service complaint or, as the case may be, the relevant service matter;

(b) any injustice which the complainant considers he or she has or may have suffered as a result of the alleged undue delay; and

(c) the facts by reference to which undue delay within sub-paragraph (a) and any resulting injustice within sub-paragraph (b) are alleged to have occurred.

(5) If the application asks for an investigation within section 340H(1)(a) or (b), the complainant must attach to the application a copy of any related decision under regulations made for the purposes of section 340C(2), of any related determination of the appeal brought under regulations made for the purposes of section 340D(1), or of any related decision for the purposes of regulations made under section 340M(5).

(6) The application must state the date on which it is made.

(7) If the application is not made within the period specified in regulation 4(1), it must state the reason why.

(8) The application shall be deemed to have been made on the day on which the application was posted or sent electronically to the Ombudsman.

Time limits: applications to the Ombudsman

4.—(1) Subject to paragraph (2), an application to the Ombudsman which asks for an investigation within section 340H(1)(a) or (b) may not be made after a period of six weeks beginning with the day on which the complainant received notification that his or her complaint has been finally determined within the meaning of section 340H(5).

(2) An application may be made after the end of the period stated in paragraph (1), if the Ombudsman considers that it is just and equitable to allow this.

(3) In this regulation, the reference to the day on which the complainant received notification shall be deemed to be a reference to the second day after the day on which the notification was posted or sent electronically to the complainant.

Action following application or decision to investigate under section 340H(7)

5.—(1) In response to an application under section 340H(1), the Ombudsman must decide under section 340I(1) whether to begin an investigation, and then notify the complainant and the Defence Council of his or her decision, giving reasons for the decision.

(2) If the Ombudsman decides to begin an investigation, despite the application under section 340H(1) having been made after the end of the period stated in regulation 4(1), the Ombudsman must explain in his or her decision the reasons why the Ombudsman considers it just and equitable to do so.

(3) If the Ombudsman decides to begin an investigation, he or she must send a copy of the application to the Defence Council.

(4) If the Ombudsman decides to investigate any maladministration which becomes apparent to the Ombudsman in accordance with section 340H(7), he or she must notify the complainant and the Defence Council of that decision, giving reasons for the decision.

Notice of wish to withdraw application

6.—(1) The complainant may notify the Ombudsman in writing that he or she wishes to withdraw his or her application at any time before the completion by the Ombudsman of the investigation in relation to that application.

(2) After receipt of a notification under paragraph (1), the Ombudsman must—

(a) send a copy of the notification to the Defence Council; and

(b) decide, having regard to that notification, whether to begin, continue or discontinue the investigation.

(3) The Ombudsman must notify the complainant and the Defence Council of his or her decision under paragraph (2)(b), giving reasons for the decision.

Requirements for information, documents and evidence

7. Where under section 340J the Ombudsman requires a person to provide a document or other information for the purposes of an investigation, the Ombudsman may—

(a) require the document or the information to be provided within such period as he or she considers reasonable;