Draft Regulations laid before Parliament under section 373(3) of the Armed Forces Act 2006, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2007 No.

DEFENCE

The Armed Forces (Redress of Individual Grievances) Regulations 2007

Made - - - -

Coming into force - - 1st January 2008

The Secretary of State makes the following Regulations in exercise of the powers conferred on him by sections 334(2), 336(5)(a) and 336(6) of the Armed Forces Act 2006(**1**):

In accordance with section 373(3) of the Armed Forces Act 2006 a draft of this instrument was laid before, and approved by resolution of, each House of Parliament.

Citation and commencement

1. These Regulations may be cited as the Armed Forces (Redress of Individual Grievances) Regulations 2007 and shall come into force on 1st January 2008.

Interpretation

2. In these Regulations—

"independent member" has the same meaning as in section 336 of the Act;

"relevant officer" has the same meaning as in section 338 of the Act;

"service complaint" has the same meaning as in section 334 of the Act;

"service complaint panel" has the same meaning as in section 335 of the Act;

"the Act" means the Armed Forces Act 2006;

"the Discretionary Awards Panel" means the body which, under authority delegated by the Secretary of State for Defence in relation to Royal Navy cases and under authority delegated by the Defence Council in relation to Army and Royal Air Force cases, exercises certain powers relating to the award of discretionary pension benefits;

"the Discretionary Awards Appeals Panel" means the body which decides appeals against decisions of the Discretionary Awards Panel;

(**1**) 2006 c.52.

Excluded complaints

3. A person may not make a service complaint about a matter within Schedule 1.

4. A person may not make a service complaint about a decision of the Defence Council under section 334(7) or (8) of the Act, whether or not the Defence Council delegated that decision to a service complaint panel.

Composition of service complaint panels

5. If a service complaint is made by an officer of or above the rank of rear admiral, major-general or air vice-marshal and any function of the Defence Council in relation to the service complaint is delegated to a service complaint panel, at least one officer appointed to the panel shall be of at least the same rank as, or of equal rank to, the complainant.

6. If—

(1) in the opinion of the Defence Council, its decision under section 334(7) or (8) of the Act in relation to a service complaint may involve consideration of a decision by, or other conduct of, an officer of or above the rank of rear admiral, major-general or air vice-marshal, and

(2) any function of the Defence Council in relation to the service complaint is delegated to a service complaint panel,

at least one officer appointed to the panel shall be of at least the same rank as, or of equal rank to, the officer whose decision or other conduct may fall to be considered.

7. The following persons shall not be appointed to a service complaint panel:

(1) a member of the Defence Council, the Admiralty Board, the Army Board or the Air Force Board; and

(2) an officer of the Naval Chaplaincy Service, the Royal Army Chaplains Department or the Royal Air Force Chaplains Branch.

8. A service complaint panel considering a service complaint shall not include a person who—

(1) acted in relation to the complaint as an officer of a prescribed description under section 334(4)(a) of the Act;

(2) acted in relation to the complaint as a superior officer of a prescribed description under section 334(4)(b) of the Act;

(3) has otherwise been involved in the investigation or consideration of the complaint;

(4) is, or was when the complaint was made, the commanding officer of the complainant; or

(5) is the subject of the complaint or is, in the statement of complaint made in accordance with regulations made under section 334(3) of the Act, alleged to be implicated in any way in the matter complained of.

9.—(1) A service complaint panel shall include one independent member in any case in which the service complaint:

(a) alleges discrimination;

(b) alleges harassment;

(c) alleges bullying;

(d) alleges dishonest, improper or biased behaviour;

(e) alleges a failure of the Ministry of Defence to provide medical, dental or nursing care and that the Ministry of Defence was responsible for providing that care;

(f) alleges negligence in the provision by the Ministry of Defence of medical, dental or nursing care; or

(g) concerns the exercise by a service policeman of his statutory powers as a service policeman.

(2) A service complaint panel shall include one independent member in the case of a service complaint about a decision of an officer referred to in regulation 8(1) or (2) that a service complaint, made in response to action under section 338(3)(c) of the Act by the relevant officer, shall not be allowed to proceed.

(3) In this regulation, "discrimination" means discrimination or victimisation on the grounds of colour, race, ethnic or national origin, nationality, sex, gender re-assignment, status as a married person or civil partner, religion, belief or sexual orientation, and less favourable treatment of part-time employees.

10. If a service complaint panel includes an independent member, the panel shall be composed of three members.

Application

11.—(1) Nothing in regulation 3 and Schedule 1, or in paragraph (3) and Schedule 2, shall have effect in relation to a matter of complaint that occurred before 1st January 2008, or which began before, and continues to occur after, that date.

(2) Nothing in regulations 4 to 10 shall have effect in relation to a complaint that was made before 1st January 2008.

(3) Schedule 2 shall have effect.

Name
Parliamentary Under Secretary of State
Ministry of Defence

Date