

# **ARMED FORCES (SERVICE COMPLAINTS AND FINANCIAL ASSISTANCE) BILL [HL]**

---

## **EXPLANATORY NOTES ON COMMONS AMENDMENTS**

### **INTRODUCTION**

1. These Explanatory Notes relate to the Commons amendments to the Armed Forces (Service Complaints and Financial Assistance) Bill [HL], as brought from the House of Commons on 9th March 2015. They have been prepared by the Ministry of Defence in order to assist the reader of the Bill and the Commons amendments, and to help inform debate on the Commons amendments. They do not form part of the Bill and have not been endorsed by Parliament.
2. These Notes, like the Commons amendments themselves, refer to Bill 102, the Bill as first printed for the Commons.
3. These Notes need to be read in conjunction with the Commons amendments and the text of the Bill. They are not, and are not meant to be, a comprehensive description of the effect of Commons amendments.
4. Commons Amendments 7 and 8 were opposed by the Government. The remaining Commons amendments were tabled in the name of the Minister (in the case of Commons Amendments 1 to 6 and 9 to 20, in response to amendments to the Bill that were opposed by the Government during the Bill's Public Bill Committee stage).
5. In the following Commentary, an asterisk appears in the heading of the paragraph that deals with non-Government amendments.

### **COMMENTARY ON COMMONS AMENDMENTS**

#### *Commons Amendments to clause 2 – Reform of system for redress of individual grievances*

##### **Commons Amendments 1, 3, 6, 9, 12 and 15**

6. Commons Amendment 1 would extend the Service Complaints Ombudsman's investigation powers under new section 340H for the Armed Forces Act 2006, so that the Ombudsman may investigate a service complaint. It would also clarify that an allegation of maladministration in connection with the handling of a service complaint could include an

allegation of undue delay. An investigation by the Ombudsman in either case would only be possible where the Ombudsman is satisfied that the complaint has been finally determined.

7. Commons Amendment 6 would clarify that a service complaint has been finally determined, for the purposes of new section 340H, where there has been a final decision or determination on it in the internal system for redress of service complaints.

8. Commons Amendment 1 would also empower the Ombudsman to investigate allegations of undue delay in the handling of a service complaint which has not yet been fully determined, or in the handling of a relevant service matter. Commons Amendment 3 would define “relevant service matter” as a matter of a kind about which a service complaint-

- may be made (whether or not a service complaint had been made at the time of the application of the Ombudsman or was subsequently made), or
- could have been made (but for provision in service complaints regulations that has the effect of preventing a complaint about the matter from being made because of the expiry of a specified time limit).

9. Commons Amendments 12 and 15 would make amendments in consequence of Commons Amendment 1.

#### **Commons Amendment 2**

10. Commons Amendment 2 would clarify the provision made in new section 340H(1) for the Armed Forces Act 2006 about the making of applications to the Service Complaints Ombudsman. In particular, it would make provision about who may make an application to the Ombudsman for an investigation under new section 340H(1).

#### **Commons Amendments 4 and 5**

11. Commons Amendment 4 would require an application to the Service Complaints Ombudsman to specify which kind (or kinds) of investigation the applicant wants the Ombudsman to carry out. The idea would be to help the Ombudsman understand what the applicant wants the Ombudsman to investigate, having regard to the different kinds of investigation that would be possible under new section 340H(1) if Commons Amendment 1 is agreed to.

#### **\* Commons Amendments 7 and 8**

12. Commons Amendments 7 and 8 would make provision in consequence of the power of the Service Complaints Ombudsman to investigate a service complaint. They would prevent the Ombudsman from investigating a service complaint before a final decision has been reached on the complaint in the internal service complaints redress system.

#### **Commons Amendment 10**

13. Commons Amendment 10 would clarify the purpose of each of the different kinds of investigation under new section 340H(1) for the Armed Forces Act 2006 (assuming that Commons Amendment 1 is agreed to). This clarification would be particularly necessary in

relation to the investigation of a service complaint, as the possibility of injustice would be considered in any event in the course of considering whether or not the complaint is well-founded.

**Commons Amendment 11**

14. Commons Amendment 11 would provide for the circumstances in which the Service Complaints Ombudsman has power to investigate maladministration in the handling of a service complaint (other than any maladministration that the complainant has specifically alleged). It would enable the Ombudsman to investigate any maladministration in the handling of a service complaint where it becomes apparent to the Ombudsman, while investigating a service complaint or a specific allegation of maladministration in connection with the handling of a service complaint, that any (non-alleged) maladministration may have occurred.

**Commons Amendment 13**

15. Commons Amendment 13 would confine new section 340H(8), which prevents the Service Complaints Ombudsman from investigating subsequent applications relating to a service complaint that the Ombudsman has already investigated, to cases where the Ombudsman has carried out an investigation under new section 340H(1)(a) or (b) in relation to the complaint.

**Commons Amendment 14**

16. Commons Amendment 14 would provide that the Service Complaints Ombudsman may investigate a service complaint, or an allegation, in whole or in part. For example, the Ombudsman may not want to reopen a particular aspect of a service complaint if he or she is satisfied that that aspect has been satisfactorily dealt with during the internal service redress process.

**Commons Amendments 16 to 20**

17. Commons Amendment 16 would require the Service Complaints Ombudsman to include, in a report under new section 340L, any recommendations required by the new subsection (2A) that would be inserted by Commons Amendment 17. That amendment would provide for the recommendations which the Ombudsman can make as a result of findings on an investigation under new section 340H(1) (see Commons Amendment 1) or by virtue of new section 340H(4A) (see Commons Amendment 11).

18. Commons Amendments 18 to 20 would be needed in consequence of Commons Amendment 17.

***Other Commons Amendments***

**Commons Amendments 21 to 23**

19. Commons Amendment 21 would insert a new clause conferring power on the Secretary of State to make regulations containing transitional, transitory or saving provision in connection with the coming into force of clauses 1 to 3 and the Schedule.

20. Commons Amendment 22 would remove the power for commencement regulations to make transitional, transitory or saving provision, which would no longer be needed as a result of the new clause inserted by Commons Amendment 21.

21. Commons Amendment 23 would ensure that the new clause inserted by Commons Amendment 21 would come into force on Royal Assent.

**Commons Amendment 24**

22. Commons Amendment 24 would remove subsection (2) of clause 7 which was inserted by the Lords for the purpose of recognising and maintaining the privileges of the House of Commons in financial matters; the removal of subsection (2) would be purely procedural.

**Commons Amendment 25 to 27**

23. Commons Amendment 25 and 26 would amend equal pay, sex discrimination and race relations legislation in Northern Ireland to clarify how the new service complaints provisions in Part 14A of the Armed Forces Act 2006 will interact with certain complaints to industrial tribunals in Northern Ireland. The amendments would be similar in substance to those relating to the Equality Act 2010 in paragraphs 5 to 8 of the Schedule to the Bill.

24. Commons Amendment 27 would provide for the revocation of three sets of regulations that are made in the exercise of powers that would be repealed by Commons Amendments 25 and 26.

# ARMED FORCES (SERVICE COMPLAINTS AND FINANCIAL ASSISTANCE) BILL [HL]

## EXPLANATORY NOTES ON COMMONS AMENDMENTS

*These notes refer to the Armed Forces (Service Complaints and Financial Assistance) Bill [HL]  
as brought from the House of Commons on 9th March 2015  
[HL Bill 101]*

---

*Ordered to be Printed,  
9th March 2015*

---

© Parliamentary copyright 2015

This publication may be reproduced under the terms of the Open Parliament Licence, which is  
published at

[www.parliament.uk/site-information/copyright](http://www.parliament.uk/site-information/copyright).

PUBLISHED BY AUTHORITY OF THE HOUSE OF LORDS  
LONDON – THE STATIONERY OFFICE LIMITED  
Printed in the United Kingdom by The Stationery Office Limited

£x.00