

SCHEDULE

Section 3

SERVICE COMPLAINTS: CONSEQUENTIAL AMENDMENTS

Equal Pay Act (Northern Ireland) 1970 (c. 32 (N.I.))

- 1 The Equal Pay Act (Northern Ireland) 1970 is amended as follows.
- 2 (1) Section 6A (service pay and conditions) is amended as follows.
 - (2) In subsection (5), for paragraph (b) substitute—

“(b) the complaint has not been withdrawn.”
 - (3) After subsection (5) insert—

“(5A) Where the service complaint is dealt with by a person or panel appointed by the Defence Council by virtue of section 340C(1)(a) of the Armed Forces Act 2006, it is to be treated for the purposes of subsection (5)(b) as withdrawn if—

 - (a) the period allowed in accordance with service complaints regulations for bringing an appeal against the person’s or panel’s decision expires, and
 - (b) either—
 - (i) the claimant does not apply to the Service Complaints Ombudsman for a review by virtue of section 340D(6) of that Act (review of decision that appeal brought out of time cannot proceed), or
 - (ii) the claimant does apply for such a review and the Ombudsman decides that an appeal against the person’s or panel’s decision cannot be proceeded with.”
 - (4) For subsection (6) substitute—

“(6A) Subsection (5) does not prevent the claimant from presenting a complaint to an industrial tribunal concerning a claim in respect of the contravention of a term of service relating to membership of, or rights under—

 - (a) an occupational pension scheme made under section 3 of the Naval and Marine Pay and Pensions Act 1865,
 - (b) the Army Pensions Warrant 1977, or
 - (c) an occupational pension scheme made under section 2 of the Air Force (Constitution) Act 1917.

(6B) In subsection (6A), “occupational pension scheme” has the same meaning as in section 1 of the Pension Schemes (Northern Ireland) Act 1993.”
- (5) For subsection (7) substitute—

“(7) The presentation of a complaint to an industrial tribunal in reliance on subsection (5) does not affect the continuation of the procedures set out in service complaints regulations.”
- (6) Omit subsection (11).
- (7) In subsection (12)—

Status: This is the original version (as it was originally enacted).

- (a) in the definition of “service complaint”, for “section 334” substitute “section 340A”,
 - (b) after that definition, insert—
 - ““service complaints regulations” means regulations made under section 340B(1) of that Act.”, and
 - (c) omit the definition “the service complaint procedures”.
- 3 In section 6AB (“arrears date” in proceedings under section 6A(9)), in subsection (5), for “in accordance with regulations made under section 6A(6)” substitute “by virtue of section 6A(6A)”.

House of Commons Disqualification Act 1975 (c. 24)

- 4 In Part 3 of Schedule 1 to the House of Commons Disqualification Act 1975 (disqualifying offices)—
- (a) omit the entry relating to the Service Complaints Commissioner, and
 - (b) at the appropriate place insert—
 - “Service Complaints Ombudsman.”

Sex Discrimination (Northern Ireland) Order 1976 (S.I. 1976/1042 (N.I. 15))

- 5 The Sex Discrimination (Northern Ireland) Order 1976 is amended as follows.
- 6 In Article 80 (orders and regulations), in paragraph (1), omit “(except Article 82(9C))”.
- 7 (1) Article 82 (application to Crown etc) is amended as follows.
- (2) In paragraph (9B), for sub-paragraph (b) substitute—
 - “(b) the complaint has not been withdrawn.”
 - (3) After paragraph (9B) insert—
 - “(9BA) Where the service complaint is dealt with by a person or panel appointed by the Defence Council by virtue of section 340C(1)(a) of the Armed Forces Act 2006, it is to be treated for the purposes of paragraph (9B)(b) as withdrawn if—
 - (a) the period allowed in accordance with service complaints regulations for bringing an appeal against the person’s or panel’s decision expires, and
 - (b) either—
 - (i) the complainant does not apply to the Service Complaints Ombudsman for a review by virtue of section 340D(6) of that Act (review of decision that appeal brought out of time cannot proceed), or
 - (ii) the complainant does apply for such a review and the Ombudsman decides that an appeal against the person’s or panel’s decision cannot be proceeded with.”
 - (4) Omit paragraph (9C).
 - (5) For paragraph (9D) substitute—

Status: This is the original version (as it was originally enacted).

“(9D) The presentation of a complaint to an industrial tribunal in reliance on paragraph (9B) does not affect the continuation of the procedures set out in service complaints regulations.”

(6) Omit paragraph (9E).

(7) In paragraph (10)—

- (a) in the definition of “service complaint”, for “section 334” substitute “section 340A”,
- (b) after that definition, insert—
““service complaints regulations” means regulations made under section 340B(1) of that Act;”, and
- (c) omit the definition “the service complaint procedures”.

Race Relations (Northern Ireland) Order 1997 (S.I. 1997/869 (N.I. 6))

8 (1) Article 71 of the Race Relations (Northern Ireland) Order 1997 (application to Crown etc) is amended as follows.

(2) In paragraph (8), for sub-paragraph (b) substitute—

“(b) the complaint has not been withdrawn.”

(3) After paragraph (8) insert—

“(8A) Where the service complaint is dealt with by a person or panel appointed by the Defence Council by virtue of section 340C(1)(a) of the Armed Forces Act 2006, it is to be treated for the purposes of paragraph (8)(b) as withdrawn if—

- (a) the period allowed in accordance with service complaints regulations for bringing an appeal against the person’s or panel’s decision expires, and
- (b) either—
 - (i) the complainant does not apply to the Service Complaints Ombudsman for a review by virtue of section 340D(6) of that Act (review of decision that appeal brought out of time cannot proceed), or
 - (ii) the complainant does apply for such a review and the Ombudsman decides that an appeal against the person’s or panel’s decision cannot be proceeded with.”

(4) Omit paragraph (9).

(5) For paragraph (10) substitute—

“(10) The presentation of a complaint to an industrial tribunal in reliance on paragraph (8) does not affect the continuation of the procedures set out in service complaints regulations.”

(6) Omit paragraph (11).

(7) In paragraph (12)—

- (a) in the definition of “service complaint”, for “section 334” substitute “section 340A”,
- (b) after that definition, insert—

Status: This is the original version (as it was originally enacted).

- ““service complaints regulations” means regulations made under section 340B(1) of that Act;”, and
- (c) omit the definition “the service complaint procedures”.

Armed Forces Act 2006 (c. 52)

- 9 The Armed Forces Act 2006 is amended as follows.
- 10 In section 373 (orders, regulations and rules under that Act)—
- (a) in subsection (2), for “and 340” substitute “, 340 and 340B”, and
 - (b) in subsection (3)(d) (regulations subject to affirmative procedure), for the words from “334(2)” to the end substitute “340A(4), 340E(1) or 340N”.
- 11 In section 374 (definitions applying for purposes of Act)—
- (a) omit the definition relating to the Service Complaints Commissioner, and
 - (b) at the appropriate place insert—
 - ““the Service Complaints Ombudsman” means the person appointed under section 365B;”.

Equality Act 2010 (c. 15)

- 12 Part 9 of the Equality Act 2010 (enforcement) is amended as follows.
- 13 (1) Section 121 (armed forces cases in relation to which employment tribunal has jurisdiction) is amended as follows.
- (2) For subsection (2) substitute—
- “(2) Where the complaint is dealt with by a person or panel appointed by the Defence Council by virtue of section 340C(1)(a) of the 2006 Act, it is to be treated for the purposes of subsection (1)(b) as withdrawn if—
- (a) the period allowed in accordance with service complaints regulations for bringing an appeal against the person’s or panel’s decision expires, and
 - (b) either—
 - (i) the complainant does not apply to the Service Complaints Ombudsman for a review by virtue of section 340D(6) of the 2006 Act (review of decision that appeal brought out of time cannot proceed), or
 - (ii) the complainant does apply for such a review and the Ombudsman decides that an appeal against the person’s or panel’s decision cannot be proceeded with.”
- (3) Omit subsections (3) and (4).
- (4) In subsection (5), for the words from “the service” to the end substitute “the procedures set out in service complaints regulations.”
- (5) After subsection (5) insert—
- “(6) In this section—
- “the 2006 Act” means the Armed Forces Act 2006;
 - “service complaints regulations” means regulations made under section 340B(1) of the 2006 Act.”

Status: This is the original version (as it was originally enacted).

- 14 In section 127 (jurisdiction), in subsection (7), for “Subsections (2) to (5)” substitute “Subsections (2) to (6)”.
- 15 In section 141 (interpretation), for subsection (8) substitute—
“(8) Service complaint” means a complaint made under section 340A(1) or (2) of the Armed Forces Act 2006.”

Armed Forces Act 2011 (c. 18)

- 16 Omit section 20 of the Armed Forces Act 2011 (service complaint panels).

Consequential revocations

- 17 The following instruments are revoked—
the Race Relations (Complaints to Industrial Tribunals) (Armed Forces) Regulations 1998 (S.R. (N.I.) 1998/104);
the Equal Pay (Complaints to Industrial Tribunals) (Armed Forces) Regulations 1998 (S.R. (N.I.) 1998/105);
the Sex Discrimination (Complaints to Industrial Tribunals) (Armed Forces) Regulations 1998 (S.R. (N.I.) 1998/106).