

EXPLANATORY MEMORANDUM TO
THE ARMED FORCES (NAVAL CHAPLAINS) REGULATIONS 2009

2009 No. 826

1. This explanatory memorandum has been prepared by the Ministry of Defence and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This instrument makes provision for certain references to “an officer” in the Armed Forces Act 2006 (AFA 06) to apply to naval chaplains, and to make certain modifications to the Act in consequence of the fact that naval chaplains do not have a rank.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative background

4.1 The reason for the requirement for these regulations is that although naval chaplains are commissioned into the Royal Navy, they have no equivalent Service rank and, as such, would fall outside the provisions of AFA 06 relating to officers. The provisions define who acts as a superior officer to a naval chaplain for an act of misconduct towards or disobedience to such an officer by a naval chaplain and in the exercise of powers or arrest over a naval chaplain. The regulations also provide for the same exemption from service as a member of a service court for naval chaplains as exists for their army and RAF equivalents.

5. Territorial Extent and Application

5.1 This instrument extends to the United Kingdom, the Isle of Man and British overseas territories and applies to persons subject to service law wherever they are in the world.

6. European Convention on Human Rights

6.1 The Under Secretary of State has made the following statement regarding Human Rights:

In my view, the provisions of the Armed Forces (Naval Chaplains) Regulations 2009 are compatible with the Convention rights.

7. Policy Background

7.1 Although naval chaplains would still be subject to the Act, the Statutory Instrument clarifies how certain provisions apply to them. To ensure that the naval element of chaplaincy services came under the same auspices and regulations created by AFA 06, as the chaplaincy services in the Army and Royal Air Force, regulations pertaining to equivalency of rank were proposed as outlined above.

8. Consultation outcome

8.1 A memorandum about consultation on the Armed Forces Act 2006 primary legislation was submitted in written evidence to the Select Committee on the Armed Forces Bill and published on 9 May 2006 in its Special Report of Session 2005-06 (HC 828-II, page Ev 136). This memorandum explained how stakeholder consultation had been carried out and listed the individuals and organisations consulted. The individual instruments under the 2006 Act have been the subject of rigorous consultation with relevant stakeholders (such as the Services, the Service police, the Judge Advocate General and the Military Court Service) over a period of many months, to ensure that the policy goals have been achieved and that the provisions of each instrument will work in practice. In particular, these regulations have been endorsed by the Chaplain of the Fleet and have received support from the Army and RAF chaplaincy services.

9. Guidance

9.1 A new Manual of Service Law will provide guidance and supplementary information to Armed Forces personnel on the single system of Service law established under the Armed Forces Act 2006. The first volume of the Manual, which is intended for commanding officers and those who administer the Service justice system, includes a chapter on naval chaplains. The Manual of Service Law will be available in time to allow Service personnel to be trained ahead of full implementation of the 2006 Act. Guidance will be promulgated to judge advocates through the Judge Advocate General's practice memoranda.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies.

10.2 There is no impact on the public sector.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring and review

12.1 The Armed Forces Act 2006 is subject to quinquennial review. Following full implementation of the Act in Oct 2009 the provisions will be monitored and reviewed leading up to the first quinquennial review in 2011.

13. Contact

13.1 Mr Nick Shaw at the Ministry of Defence, telephone 020 7218 0564 or email nick.shaw460@mod.uk is the point of contact regarding this instrument.