

2009 No. 826

DEFENCE

The Armed Forces (Naval Chaplains) Regulations 2009

Made - - - - - *31st March 2009*

Laid before Parliament *2nd April 2009*

Coming into force - - - *31st October 2009*

The Secretary of State, in exercise of the powers conferred by section 371 of the Armed Forces Act 2006(a), makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Armed Forces (Naval Chaplains) Regulations 2009 and shall come into force on 31st October 2009.

Interpretation

2. In these Regulations—

- (a) “the Act” means the Armed Forces Act 2006;
- (b) any reference to a numbered section is to that section of the Act; and
- (c) any reference to a chaplain’s commanding officer includes—
 - (i) the officer in command of any naval ship or establishment, or air-force station, in which the chaplain may be; and
 - (ii) where the chaplain accompanies any body (or any portion of a body) of members of Her Majesty’s forces formed under the command of a person appointed to be the commanding officer of the body, that person.

“Officer” etc

3.—(1) Except in sections 143 and 156 (qualification for membership of the Summary Appeal Court and the Court Martial), references in the Act to an officer include a naval chaplain.

(2) In section 295 (effect of sentence of dismissal) references to a commissioned officer include a naval chaplain.

“Superior officer” etc

4.—(1) In relation to a naval chaplain who is neither a principal chaplain nor the Chaplain of the Fleet, references in sections 2 (misconduct on operations), 11 (misconduct towards a superior

(a) 2006 c. 52.

officer), 20 (unfitness or misconduct through alcohol or drugs) and 22 (ill-treatment of subordinates) to a superior officer of the chaplain are to—

- (a) an officer not below the rank of naval captain, colonel or group captain, or
- (b) the chaplain's commanding officer,

and the definition of "superior officer" in section 374 does not apply to those references.

(2) In relation to a naval chaplain who is a principal chaplain, those references are to—

- (a) an officer not below the rank of rear admiral, major-general or air vice-marshal, or
- (b) the chaplain's commanding officer,

and the definition of "superior officer" in section 374 does not apply to those references.

(3) For the purposes of section 67 (power of arrest for service offence) an officer is an officer of superior rank in relation to a naval chaplain if by virtue of this regulation he is a superior officer of the chaplain for the purposes of sections 2, 11, 20 and 22.

Lawful commands

5.—(1) In relation to a naval chaplain who is neither a principal chaplain nor the Chaplain of the Fleet, references in section 12 (disobedience to lawful commands) to a command are to a command given by—

- (a) an officer not below the rank of naval captain, colonel or group captain;
- (b) the chaplain's commanding officer; or
- (c) an officer in the exercise of functions delegated to him by the chaplain's commanding officer.

(2) In relation to a naval chaplain who is a principal chaplain, those references are to a command given by—

- (a) an officer not below the rank of rear admiral, major-general or air vice-marshal;
- (b) the chaplain's commanding officer; or
- (c) an officer in the exercise of functions delegated to him by the chaplain's commanding officer.

(3) Section 12 does not apply in relation to the Chaplain of the Fleet.

(4) Where, by virtue of this regulation, a naval chaplain's disobedience to a command is not an offence under section 12, it is not, without more, an offence under section 15 (failure to attend for or perform duty etc) or 19 (conduct prejudicial to good order and discipline).

Charges capable of being heard summarily

6. For the purposes of section 52 (charges capable of being heard summarily), a naval chaplain who is neither a principal chaplain nor the Chaplain of the Fleet is to be treated as holding the rank of commander.

31st March 2009

Kevan Jones
Parliamentary Under Secretary of State
Ministry of Defence

EXPLANATORY NOTE

(This note is not part of the Regulations)

A naval chaplain is commissioned as such, and is not an officer. Regulation 3 ensures that for the purposes of the Armed Forces Act 2006 he is treated as if he were an officer, except that (like a chaplain in one of the other Services) he may not sit as a member of the Court Martial or the Summary Appeal Court.

Although subject to service law, a naval chaplain has no rank, and is therefore outranked by no-one. Regulation 4 provides that the officers there specified are to be regarded as a naval chaplain's superior officers for the purpose of certain service offences, and for that of an officer's powers of arrest for a service offence.

Conversely, a naval chaplain outranks no-one. Since he is subject to service law, it follows that any officer (however junior) can give him a command. Regulation 5 enables him to disobey a command, without committing an offence of disobedience, unless the command is given by an officer of a specified rank or description.

Regulation 6 enables a charge brought against a naval chaplain to be heard summarily, unless he is a principal chaplain or the Chaplain of the Fleet.

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STATUTORY INSTRUMENTS

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