
EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes changes to sections 47M, 52FG, 52FJ, 53B, 53C and 59 of the Naval Discipline Act 1957 (“the Act”) to remove the incompatibility of those provisions with a Convention right.

In the case of *Mark Grieves v United Kingdom* (Application No. 57067/00), the Grand Chamber of the European Court of Human Rights held that there had been a violation of Article 6(1) of the Convention in that the position of the judge advocate in the applicant’s trial by court-martial did not provide a sufficient guarantee of the independence of the court-martial because, among other reasons, he had been appointed by the Chief Naval Judge Advocate, a serving naval officer.

In order to remove this incompatibility, the Order amends sections 47M(1) and (2)(c), 52FG(1), 52FJ(3), 53B(1), 53C(2) and 59(4A) of the Act to provide that the Judge Advocate of Her Majesty’s Fleet, a civilian, will appoint judicial officers and judge advocates. The Order also makes consequential changes to the Courts-Martial (Royal Navy) Rules 1997, the Naval Custody Rules 2000, the Summary Appeal Court (Navy) Rules 2000 and the Administration of Oaths (Summary Appeal Court) (Navy) Order 2000.

The Order will come into force on 16th January 2004 pursuant to the “urgent” procedure prescribed in paragraph 4 of Schedule 2 to the Human Rights Act 1998. The Order will cease to have effect if, at the end of the period of 120 days beginning with the day on which the Order was made, a resolution has not been passed by each House of Parliament approving the Order.