



Armed Forces Act 2006

2006 CHAPTER 52

PART 3

POWERS OF ARREST, SEARCH AND ENTRY

CHAPTER 1

ARREST ETC

Powers of arrest

67 Power of arrest for service offence

- (1) A person who is reasonably suspected of being engaged in committing, or of having committed, a service offence may be arrested in accordance with subsection (2), (3), (4) or (5) by a person subject to service law.
- (2) An officer may be arrested under subsection (1)—
 - (a) by an officer of superior rank or, if engaged in a mutiny, quarrel or disorder, by an officer of any rank;
 - (b) by a service policeman; or
 - (c) on the order of another officer, by a person who is lawfully exercising authority on behalf of a provost officer.
- (3) A person of or below the rank or rate of warrant officer may be arrested under subsection (1)—
 - (a) by an officer;
 - (b) by a warrant officer or non-commissioned officer of superior rank or rate;
 - (c) by a service policeman;
 - (d) by a person who is lawfully exercising authority on behalf of a provost officer; or

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- (e) if a member of a ship's company or an embarked force, by a person exercising authority as a member of the staff of the officer of the day.
- (4) A civilian subject to service discipline may be arrested under subsection (1)—
 - (a) by an officer;
 - (b) by a service policeman; or
 - (c) by a person who is lawfully exercising authority on behalf of a provost officer.
- (5) Where none of subsections (2) to (4) applies in relation to the person to be arrested, that person may be arrested under subsection (1) by a service policeman.
- (6) The power of arrest conferred on any person by this section may be exercised—
 - (a) personally;
 - (b) by giving orders for the arrest of the person who is to be arrested; or
 - (c) where that person is subject to service law, by ordering him into arrest.

Modifications etc. (not altering text)

- C1** S. 67 modified (31.10.2009) by [The Armed Forces \(Naval Chaplains\) Regulations 2009 \(S.I. 2009/826\)](#), regs. 1, **4(3)** (with reg. 2(c))

Commencement Information

- I1** S. 67 in force at 28.3.2009 for specified purposes by [S.I. 2009/812](#), **art. 3(a)(b)** (with transitional provisions in [S.I. 2009/1059](#))
- I2** S. 67 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

68 Section 67: supplementary

- (1) In section 67(2)(a) the reference to being engaged in a mutiny is a reference to committing an offence under section 6.
- (2) For the purposes of section 67(3), a person who—
 - (a) is suspected of having committed a service offence while a member of Her Majesty's forces, and
 - (b) is not a member of Her Majesty's forces or a civilian subject to service discipline,
 is to be treated in relation to the offence as being of the rank or rate which he held when he was last a member of Her Majesty's forces.
- (3) For the purposes of section 67(4), a person who—
 - (a) is suspected of having committed a service offence while a civilian subject to service discipline, and
 - (b) is not a member of Her Majesty's forces or a civilian subject to service discipline,
 is to be treated in relation to the offence as if he were a civilian subject to service discipline.
- (4) Where a person may be charged (within the meaning of section 61(1)) with an offence only with the consent of the Attorney General (see section 61(2)), section 67(1) has effect in relation to the offence as if for the words from “in accordance with” to the

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end there were substituted “ by a service policeman ” (and as if section 67(2) to (5) were omitted).

Commencement Information

- I3** S. 68 in force at 28.3.2009 for specified purposes by S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059)
- I4** S. 68 in force at 31.10.2009 in so far as not already in force by S.I. 2009/1167, art. 4

69 Power of arrest in anticipation of commission of service offence

- (1) A service policeman may arrest a person whom he reasonably suspects of being about to commit a service offence.
- (2) Subsection (6) of section 67 applies in relation to the power of arrest conferred by this section as it applies in relation to the power of arrest conferred by that section.
- (3) Where a person is arrested under this section—
 - (a) the arrest must be reported as soon as practicable to his commanding officer; and
 - (b) he may be kept in service custody until such time as a service policeman is satisfied that the risk of his committing the service offence concerned has passed.

Commencement Information

- I5** S. 69 in force at 28.3.2009 for specified purposes by S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059)
- I6** S. 69 in force at 31.10.2009 in so far as not already in force by S.I. 2009/1167, art. 4

Search on arrest

70 Search by service policeman upon arrest

- (1) A service policeman may search an arrested person if he has reasonable grounds for believing that the arrested person may present a danger to himself or others.
- (2) A service policeman may search an arrested person for anything that is subject to search if he has reasonable grounds for believing that the arrested person may have any such thing concealed on him.
- (3) For the purposes of this section a thing is “subject to search” if—
 - (a) the arrested person might use it to assist him to escape from service custody; or
 - (b) in the case of an arrest under section 67 or 69, it might be evidence relating to a service offence.
- (4) References in this section to an arrested person are to a person arrested under section 67, 69, 110, 111 or 303.

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Commencement Information

- I7** S. 70 in force at 28.3.2009 for specified purposes by S.I. 2009/812, **art. 3(a)(b)** (with transitional provisions in S.I. 2009/1059)
- I8** S. 70 in force at 31.10.2009 in so far as not already in force by S.I. 2009/1167, **art. 4**

71 Search by other persons upon arrest

- (1) A person (other than a service policeman) who is exercising a power of arrest may search the arrested person if he has reasonable grounds for believing that the arrested person may present a danger to himself or others.
- (2) Subsection (4) (power to search arrested person for things subject to search) applies where—
 - (a) a person (“the arrested person”) is to be or has been arrested by a person other than a service policeman; and
 - (b) the commanding officer of the arrested person has reasonable grounds for believing that it is likely that that person would—
 - (i) escape from service custody, or
 - (ii) conceal, damage, alter or destroy evidence,
 if a search for things subject to search could not be carried out before the earliest time by which it would be practicable to obtain the assistance mentioned in subsection (3).
- (3) That assistance is—
 - (a) the assistance of a service policeman; or
 - (b) in a case where corresponding powers conferred by section 32(2)(a) of PACE or any other enactment are exercisable by a member of a UK police force, the assistance of a member of such a force who is capable of exercising those corresponding powers.
- (4) Where this subsection applies, the commanding officer of the arrested person may order or authorise the person exercising the power of arrest to search the arrested person, on or after exercising the power, for anything that is subject to search.
- (5) A commanding officer may give an order under subsection (4) only if he has reasonable grounds for believing that the arrested person may have concealed on him anything that is subject to search.
- (6) A person authorised under subsection (4) may exercise the power of search conferred by that subsection only if he has reasonable grounds for believing that the arrested person may have concealed on him anything that is subject to search.
- (7) Section 70(3) (meaning of things “subject to search”) applies for the purposes of this section.
- (8) References in this section to arrest are to arrest under section 67, 110 or 111, and related expressions in this section are to be read accordingly.
- (9) The Defence Council may by regulations provide for the delegation by a commanding officer of his functions under this section.

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Commencement Information

- I9** S. 71 in force at 28.3.2009 for specified purposes by S.I. 2009/812, **art. 3(a)(b)** (with transitional provisions in S.I. 2009/1059)
- I10** S. 71 in force at 31.10.2009 in so far as not already in force by S.I. 2009/1167, **art. 4**

72 Sections 70 and 71: supplementary

- (1) A person exercising the power conferred by section 70(2), or ordered or authorised under section 71(4), may search the arrested person only to the extent that is reasonably required for the purpose of discovering anything that is subject to search (within the meaning of those sections).
- (2) Nothing in section 70 or 71 authorises anyone to require an arrested person to remove any of his clothing in public other than an outer coat, jacket, headgear or gloves.
- (3) The reference in subsection (2) to headgear does not include headgear worn for religious reasons.
- (4) Any power of search conferred by section 70 or 71 authorises the search of the arrested person's mouth.

Commencement Information

- I11** S. 72 in force at 28.3.2009 for specified purposes by S.I. 2009/812, **art. 3(a)(b)** (with transitional provisions in S.I. 2009/1059)
- I12** S. 72 in force at 31.10.2009 in so far as not already in force by S.I. 2009/1167, **art. 4**

73 Seizure and retention after search upon arrest

- (1) A person exercising the power conferred by section 70(1) or 71(1) may seize and retain anything he finds, if he has reasonable grounds for believing that the person searched might use it to cause physical injury to himself or to any other person.
- (2) A person exercising the power conferred by section 70(2), or ordered or authorised under section 71(4), may seize and retain anything he finds, other than an item subject to legal privilege, if he has reasonable grounds for believing—
 - (a) that the person searched might use it to assist him to escape from service custody; or
 - (b) in the case of an arrest under section 67 or 69, that it is evidence of a service offence or has been obtained in consequence of the commission of a service offence.
- (3) In subsection (2) “item subject to legal privilege” has the meaning given by section 10 of PACE.

Commencement Information

- I13** S. 73 in force at 28.3.2009 for specified purposes by S.I. 2009/812, **art. 3(a)(b)** (with transitional provisions in S.I. 2009/1059)
- I14** S. 73 in force at 31.10.2009 in so far as not already in force by S.I. 2009/1167, **art. 4**

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74 Power to make provision conferring power to search premises at which person arrested

The Secretary of State may by order make provision, in relation to premises in which a person was when or immediately before he was arrested under section 67, which is equivalent to that made by any of the provisions of section 32 of PACE which relate to the power to enter and search premises, subject to such modifications as the Secretary of State considers appropriate.

Commencement Information

- I15** S. 74 in force at 28.3.2009 for specified purposes by S.I. 2009/812, **art. 3(a)(b)** (with transitional provisions in S.I. 2009/1059)
- I16** S. 74 in force at 31.10.2009 in so far as not already in force by S.I. 2009/1167, **art. 4**

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