



Armed Forces Act 2006

2006 CHAPTER 52

PART 3

POWERS OF ARREST, SEARCH AND ENTRY

CHAPTER 2

STOP AND SEARCH

75 Power of service policeman to stop and search persons, vehicles etc

- (1) A service policeman may, in the circumstances mentioned in subsection (2) and in a place permitted by section 78, search any of the following for stolen or prohibited articles, controlled drugs or Her Majesty's stores—
- (a) any person who is, or whom the service policeman has reasonable grounds for believing to be, a person subject to service law or a civilian subject to service discipline;
 - (b) a service vehicle which is in the charge of any person;
 - (c) any vehicle which is, or which the service policeman has reasonable grounds for believing to be, in the charge of a person subject to service law or a civilian subject to service discipline;
 - (d) anything which is in or on a service vehicle or a vehicle within paragraph (c).
- (2) The circumstances are that the service policeman has reasonable grounds for suspecting—
- (a) that the search will reveal stolen or prohibited articles;
 - (b) that the search will reveal Her Majesty's stores that have been unlawfully obtained;
 - (c) in the case of the search of a person, that the person is in possession of a controlled drug in circumstances in which he commits an offence under section 42 as respects which the corresponding offence under the law of

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- England and Wales is an offence under the Misuse of Drugs Act 1971 (c. 38);
 or
- (d) in the case of the search of a vehicle, that the search will reveal a controlled drug that is in a person's possession in such circumstances.
- (3) A service policeman may detain for the purposes of a search under subsection (1)—
- (a) any person who is, or whom the service policeman has reasonable grounds for believing to be, a person subject to service law or a civilian subject to service discipline;
 - (b) any person in charge of a service vehicle;
 - (c) any service vehicle; and
 - (d) any vehicle within subsection (1)(c).
- (4) A service policeman may seize any article that he discovers in the course of a search under subsection (1) and that he has reasonable grounds for suspecting to be—
- (a) a stolen or prohibited article;
 - (b) evidence of an offence under section 42 as respects which the corresponding offence under the law of England and Wales is an offence under the Misuse of Drugs Act 1971; or
 - (c) any of Her Majesty's stores that have been unlawfully obtained.

Commencement Information

- I1** S. 75 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. 75 in force at 31.10.2009 in so far as not already in force by S.I. 2009/1167, art. 4

76 Stop and search by persons other than service policemen

- (1) An officer may order or authorise a person subject to service law (other than a service policeman)—
- (a) to search, in a place permitted by section 78—
 - (i) a person within subsection (2),
 - (ii) a vehicle in the charge of such a person, or
 - (iii) anything which is in or on such a vehicle,
 for stolen or prohibited articles, controlled drugs or Her Majesty's stores;
 - (b) to detain such a person or vehicle for the purposes of such a search; and
 - (c) to seize any article that he discovers in the course of such a search and that he has reasonable grounds for suspecting to be an article within section 75(4) (a) to (c);
- but this is subject to subsections (3) to (7).
- (2) A person is within this subsection if he is—
- (a) a person subject to service law whose commanding officer is the officer mentioned in subsection (1);
 - (b) a civilian subject to service discipline whose commanding officer is that officer;
 - (c) a person whom—
 - (i) that officer (in the case of an order under subsection (1)), or

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- (ii) the authorised person (in the case of an authorisation under that subsection),
has reasonable grounds for believing to be a person within paragraph (a) or (b).
- (3) An order under subsection (1) may be given only in relation to a particular person or vehicle.
- (4) An officer may give an order under subsection (1) only in the circumstances mentioned in section 75(2) (references to the service policeman being read as references to the officer).
- (5) A person authorised under subsection (1) may exercise the power of search conferred by virtue of that subsection only in the circumstances mentioned in section 75(2) (references to the service policeman being read as references to the authorised person).
- (6) An officer may give an order or authorisation under subsection (1) only if he has reasonable grounds for believing that it is likely that—
- (a) an offence under section 42 would be committed, or
 - (b) a person who has committed such an offence would avoid apprehension,
- if the powers conferred by this section could not be exercised before the earliest time by which it would be practicable to obtain the assistance mentioned in subsection (7).
- (7) That assistance is—
- (a) the assistance of a service policeman; or
 - (b) in a case where corresponding powers conferred by section 1 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.

Commencement Information

- I3** S. 76 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. 76 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

77 Sections 75 and 76: definitions

- (1) Subsections (2) to (6) apply for the purposes of sections 75 and 76.
- (2) “Controlled drug” has the meaning given by section 2 of the Misuse of Drugs Act 1971 (c. 38).
- (3) “Her Majesty's stores” has the same meaning as in the Public Stores Act 1875 (c. 25).
- (4) “Prohibited article” means—
- (a) an offensive weapon, other than one in the possession of a person who is permitted to have it in his possession for the purposes of any of Her Majesty's forces;
 - (b) an article made or adapted for use in the course of or in connection with an offence under section 42 as respects which the corresponding offence under the law of England and Wales is an offence mentioned in subsection (8); or
 - (c) an article intended by the person having it with him for such use by him or by some other person.

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- (5) “Service vehicle” means a vehicle which—
- (a) belongs to any of Her Majesty's forces; or
 - (b) is in use for the purposes of any of those forces.
- (6) “Stolen”, in relation to an article, has the same meaning as it has by virtue of section 24 of the Theft Act 1968 (c. 60) in the provisions of that Act relating to goods which have been stolen.
- (7) In subsection (4)(a) “offensive weapon” means any article—
- (a) made or adapted for use for causing injury to persons; or
 - (b) intended by the person having it with him for such use by him or by some other person.
- (8) The offences referred to in subsection (4)(b) are—
- (a) an offence under section 1 of the Theft Act 1968 (theft);
 - (b) an offence under section 9 of that Act (burglary);
 - (c) an offence under section 12 of that Act (taking vehicle etc without consent);
 - (d) an offence under section 1 of the Criminal Damage Act 1971 (c. 48) (destroying or damaging property);
 - (e) an offence under section 1 of the Fraud Act 2006 (fraud).
- (9) The reference in subsection (4)(b) to an offence under section 42 includes an act or omission which would constitute such an offence if done or made by a person subject to service law.

Commencement Information

- I5** [S. 77](#) 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. 77](#) in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

78 Places in which powers under sections 75 and 76 may be exercised

The powers conferred by sections 75 and 76 may be exercised only in—

- (a) any place to which (at the time of exercise of the power) the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission;
- (b) any other place to which people have ready access (at the time of exercise of the power) but which is not a dwelling or service living accommodation; and
- (c) any premises which (at the time of exercise of the power) are permanently or temporarily occupied or controlled for the purposes of any of Her Majesty's forces but are not service living accommodation.

Commencement Information

- I7** [S. 78](#) 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. 78](#) 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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79 Sections 75 and 76: limitation on searching persons or vehicles in certain gardens etc

- (1) Subsection (2) applies if a person (“A”) is in a garden or yard, or on other land, occupied with and used for the purposes of—
 - (a) a dwelling; or
 - (b) any service living accommodation within section 96(1)(a).
- (2) A person (“B”) may not by virtue of section 78(a) or (b) search A in the exercise of the power conferred by section 75 or 76 unless B has reasonable grounds for believing—
 - (a) that A does not reside in the dwelling or service living accommodation; and
 - (b) that A is not in the place in question with the express or implied permission of a person who resides in the dwelling or service living accommodation.
- (3) Subsection (4) applies if a vehicle is in a garden or yard, or on other land, occupied with and used for the purposes of—
 - (a) a dwelling; or
 - (b) any service living accommodation within section 96(1)(a).
- (4) A person may not by virtue of section 78(a) or (b) search the vehicle or anything in or on it in the exercise of the power conferred by section 75 or 76 unless he has reasonable grounds for believing—
 - (a) that the person in charge of the vehicle does not reside in the dwelling or service living accommodation; and
 - (b) that the vehicle is not in the place in question with the express or implied permission of a person who resides in the dwelling or service living accommodation.
- (5) In this section “dwelling” does not include any dwelling which is permanently or temporarily occupied or controlled for the purposes of any of Her Majesty's forces.

Commencement Information

- I9** S. 79 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. 79 in force at 31.10.2009 in so far as not already in force by S.I. 2009/1167, art. 4

80 Searches under sections 75 and 76: supplementary

- (1) The time for which a person or vehicle may be detained for the purposes of a search under section 75 or 76 is such time as is reasonably required to permit a search to be carried out either at the place where the person or vehicle was first detained or nearby.
- (2) Nothing in section 75 or 76 authorises anyone to require a 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 purposes.
- (4) Nothing in this Chapter limits the powers exercisable on any premises if, or to the extent that, the premises are being used for keeping persons in service custody.

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Commencement Information

- I11** S. 80 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. 80 in force at 31.10.2009 in so far as not already in force by S.I. 2009/1167, **art. 4**

81 Power to make further provision about searches under sections 75 and 76

The Secretary of State may by order make provision, in relation to the search of persons or vehicles under section 75 or 76, which is equivalent to that made by any provision of—

- (a) section 2(1) to (7) and (9)(b) of PACE (provisions relating to search under section 1 of that Act and other powers), and
 - (b) section 3 of PACE (duty to make records concerning searches),
- subject to such modifications as the Secretary of State considers appropriate.

Commencement Information

- I13** S. 81 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. 81 in force at 31.10.2009 in so far as not already in force by S.I. 2009/1167, **art. 4**

82 Application of Chapter to ships and aircraft

This Chapter applies to ships and aircraft as it applies to vehicles.

Commencement Information

- I15** S. 82 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. 82 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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