



# Armed Forces Act 2001

## 2001 CHAPTER 19

### PART 2

#### POWERS OF ENTRY, SEARCH AND SEIZURE

##### *Powers to stop and search*

## 2 Powers to stop and search persons, vehicles etc

[<sup>F1</sup>(1) A service policeman may exercise any power conferred by this section—

- (a) in any place to which at the time when he proposes to exercise 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) in any other place to which people have ready access at the time when he proposes to exercise the power but which is not a dwelling or service living accommodation, and
- (c) in any premises which at the time when he proposes to exercise the power are permanently or temporarily occupied or controlled by any of Her Majesty's forces but are not service living accommodation.

(2) Subject to subsections (3) to (6), a service policeman—

- (a) may search—
  - (i) any person who is, or whom the service policeman has reasonable grounds for believing to be, subject to service law,
  - (ii) a service vehicle which is in the charge of any person,
  - (iii) 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
  - (iv) anything which is in or on a service vehicle or a vehicle falling within sub-paragraph (iii),

for stolen or prohibited articles, controlled drugs or Her Majesty's stores, and

- (b) may detain for the purpose of such a search—

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- (i) any person who is, or whom the service policeman has reasonable grounds for believing to be, subject to service law,
  - (ii) any person in charge of a service vehicle,
  - (iii) any service vehicle, and
  - (iv) any vehicle falling within paragraph (a)(iii).
- (3) This section does not give a service policeman power to search a person or vehicle or anything in or on a vehicle unless—
- (a) he has reasonable grounds for suspecting that he will find—
    - (i) stolen or prohibited articles, or
    - (ii) Her Majesty's stores that have been unlawfully obtained, or
  - (b) he has reasonable grounds for suspecting—
    - (i) 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 against section 70 of either of the 1955 Acts or section 42 of the 1957 Act for which the corresponding civil offence is an offence under the Misuse of Drugs Act 1971 (c. 38), or
    - (ii) in the case of the search of a vehicle, that he will find a controlled drug that is in a person's possession in such circumstances.
- (4) If a person is in a garden or yard occupied with and used for the purposes of a dwelling or of any service living accommodation falling within section 15(1)(a) or on other land so occupied and used, a service policeman may not by virtue of subsection (1) (a) or (b) search him in the exercise of the power conferred by this section unless the service policeman has reasonable grounds for believing—
- (a) that he does not reside in the dwelling or service living accommodation, and
  - (b) that he 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) If a vehicle is in a garden or yard occupied with and used for the purposes of a dwelling or of any service living accommodation falling within section 15(1)(a) or on other land so occupied and used, a service policeman may not by virtue of subsection (1)(a) or (b) search the vehicle or anything in or on it in the exercise of the power conferred by this section unless the service policeman 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.
- (6) In subsections (4) and (5) “ dwelling ” does not include any dwelling which is permanently or temporarily occupied or controlled by any of Her Majesty's forces.
- (7) If in the course of a search under this section a service policeman discovers an article which he has reasonable grounds for suspecting to be—
- (a) a stolen or prohibited article,
  - (b) evidence of an offence against section 70 of either of the 1955 Acts or section 42 of the 1957 Act for which the corresponding civil offence is an offence under the Misuse of Drugs Act 1971 (c. 38), or
  - (c) any of Her Majesty's stores that have been unlawfully obtained,
- he may seize it.

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- (8) An article is prohibited for the purposes of this section if it is—
- (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, or
  - (b) an article—
    - (i) made or adapted for use in the course of or in connection with an offence specified in subsection (9) or an offence as respects which the corresponding civil offence is an offence specified in that subsection; or
    - (ii) intended by the person having it with him for such use by him or by some other person.
- (9) The offences referred to in subsection (8)(b)(i) are—
- (a) burglary,
  - (b) theft,
  - (c) offences under section 12 of the Theft Act 1968 (c. 60) (taking motor vehicle or other conveyance without authority), <sup>F2</sup> ...
  - [<sup>F3</sup>(d) fraud (contrary to section 1 of the Fraud Act 2006).]
  - (e) [<sup>F4</sup>offences under section 1 of the Criminal Damage Act 1971 (destroying or damaging property).]
- (10) In this section—
- “ Her Majesty's stores ” has the same meaning as in the Public Stores Act 1875 (c. 25);
  - “ 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;
  - “ 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.]

#### Textual Amendments

- F1** Ss. 1-12 repealed (8.11.2006 for the purpose of the repeal of s. 1) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(1), [Sch. 17](#)
- F2** Word in s. 2(9)(c) repealed (20.1.2004) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 37 Pt. 1](#); [S.I. 2004/81](#), art. 2(1)(2)(g)(iii)
- F3** [S. 2\(9\)\(d\)](#) substituted (15.1.2007) by [Fraud Act 2006 \(c. 35\)](#), s. 15(1), [Sch. 1 para. 33](#); [S.I. 2006/3200](#), art. 2
- F4** [S. 2\(9\)\(e\)](#) and preceding word inserted (20.1.2004) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 1 para. 15](#); [S.I. 2004/81](#), art. 2(1)(2)(a)

#### Modifications etc. (not altering text)

- C1** [S. 2\(8\)\(b\)](#) modified (15.1.2007) by [Fraud Act 2006 \(c. 35\)](#), [ss. 8](#), 15(1); [S.I. 2006/3200](#), art. 2

#### Commencement Information

- I1** [S. 2](#) in force at 30.9.2003 by [S.I. 2003/2268](#), [art. 2](#)

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### 3 Provisions relating to search under s. 2

- [<sup>F1</sup>(1) The time for which a person or vehicle may be detained for the purposes of a search under section 2 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) The power conferred by section 2 is not to be construed as authorising a service policeman to require a person to remove any of his clothing in public other than an outer coat, jacket or gloves.
- (3) The Secretary of State may by order make provision, in relation to the search of persons or vehicles under section 2 (whether carried out by service policemen or by virtue of section 4 by other persons), which is equivalent to that made by any provision of—
- (a) subsections (1) to (7) and (9)(b) of section 2 (provisions relating to search under section 1 of that Act and other powers) of the Police and Criminal Evidence Act 1984 (c. 60) (in this Part referred to as “the 1984 Act”), and
  - (b) section 3 of that Act (duty to make records concerning searches),
- subject to such modifications as the Secretary of State thinks fit.
- (4) An order under subsection (3) may, in particular, apply any of the provisions mentioned in paragraphs (a) and (b) of that subsection subject to modifications specified in the order.
- (5) Section 2 and this section apply to vessels, aircraft and hovercraft as they apply to vehicles.
- (6) Nothing in section 2 limits the powers exercisable on any premises if, or to the extent that, the premises are being used—
- (a) for holding persons in custody under any of the services Acts, or
  - (b) for the accommodation of persons serving military, air-force or naval sentences of detention or imprisonment.]

#### Textual Amendments

- F1** Ss. 1-12 repealed (8.11.2006 for the purpose of the repeal of s. 1) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(1), [Sch. 17](#)

#### Commencement Information

- I2** S. 3 in force at 30.9.2003 by [S.I. 2003/2268](#), [art. 2](#)

### 4 Power of commanding officer in relation to stopping and searching of persons, vehicles etc

- [<sup>F1</sup>(1) Subject to subsections (2) and (3), in relation to a person who is subject to service law or a vehicle in the charge of such a person, the powers conferred on a service policeman by section 2 may also be exercised—
- (a) by that person’s commanding officer, or
  - (b) by any member of Her Majesty’s forces who is authorised by that person’s commanding officer.
- (2) The power conferred on a commanding officer by virtue of subsection (1)(a) may be exercised only by giving orders for the search of a particular person or vehicle.

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- (3) A commanding officer may not give orders by virtue of subsection (1)(a) or give authority under subsection (1)(b) unless he has reasonable grounds for believing that it is likely that, if the powers conferred by section 2 could not be exercised before the earliest time by which it would be practicable to obtain—
- (a) the assistance of a service policeman, or
  - (b) in a case where corresponding powers conferred by section 1 of the 1984 Act or any other enactment are exercisable by a member of a United Kingdom police force, the assistance of a member of such a force who is capable of exercising those corresponding powers,
- offences against section 70 of either of the 1955 Acts or section 42 of the 1957 Act would be committed or persons who have committed such offences would avoid apprehension.]

#### Textual Amendments

- F1** Ss. 1-12 repealed (8.11.2006 for the purpose of the repeal of s. 1) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(1), [Sch. 17](#)

#### Commencement Information

- I3** S. 4 in force at 30.9.2003 by [S.I. 2003/2268](#), [art. 2](#)

### *Entry and search of premises*

## **5 Power of judicial officer to authorise entry and search of certain premises**

- [<sup>F1</sup>(1) If, on an application made by a service policeman, a judicial officer is satisfied that there are reasonable grounds for believing—
- (a) that an offence to which this section applies has been committed, and
  - (b) that there is on relevant residential premises specified in the application material which is likely to be of substantial value (whether by itself or together with other material) to the investigation of the offence, and
  - (c) that the material is likely to be relevant evidence, and
  - (d) that it does not consist of or include items subject to legal privilege, excluded material or special procedure material, and
  - (e) that any of the conditions specified in subsection (4) applies,
- he may issue a warrant authorising a service policeman to enter and search the premises.
- (2) This section applies to the following offences—
- (a) any offence against section 70 of either of the 1955 Acts or section 42 of the 1957 Act for which the corresponding civil offence is, or if it were committed in England and Wales would be, [<sup>F5</sup>an indictable offence];
  - (b) any offence against section 24, 25, 26, 30, 31, 32, 37, 48A or 49 of either of the 1955 Acts or against section 2, 3, 4, 5, 9, 10, 16, 19 or 20 of the 1957 Act;
  - (c) any offence specified for the purposes of this subsection in an order made by the Secretary of State;
  - (d) any offence against either of the 1955 Acts or under the 1957 Act whose commission—

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- (i) has led to any of the consequences specified in subsection (5), or
  - (ii) is intended or is likely to lead to any of those consequences.
- (3) A service policeman may seize and retain anything for which a search has been authorised under subsection (1).
- (4) The conditions mentioned in subsection (1)(e) are—
- (a) that it is not practicable to communicate with any person entitled to grant entry to the premises;
  - (b) that it is practicable to communicate with a person entitled to grant entry to the premises but it is not practicable to communicate with any person entitled to grant access to the evidence;
  - (c) that entry to the premises will not be granted unless a warrant is produced;
  - (d) in the case of service living accommodation falling within section 15(1)(b) or (c), that the person for whom it is provided will not agree to grant access to it unless a warrant is produced or that it is not practicable to communicate with him;
  - (e) that the purpose of a search may be frustrated or seriously prejudiced unless a service policeman arriving at the premises can secure immediate entry to them.
- (5) The consequences mentioned in subsection (2)(d)(i) are—
- (a) serious harm to the security of the State or to public order;
  - (b) serious interference with the administration of justice or with the investigation of offences or of a particular offence;
  - (c) the death of any person;
  - (d) serious injury to any person;
  - (e) substantial financial gain to any person;
  - (f) serious financial loss to any person;
  - (g) the undermining of discipline or morale among members of any of Her Majesty's forces.
- (6) In subsection (5)(d) “injury” includes any disease and any impairment of a person's physical or mental condition.
- (7) For the purposes of subsection (5)(f), loss is serious if, having regard to all the circumstances, it is serious for the person who suffers it.
- (8) In this section “relevant residential premises” means—
- (a) service living accommodation, or
  - (b) other premises occupied as a residence (alone or with other persons) by—
    - (i) a person who is subject to service law, or
    - (ii) a person who is suspected of having committed while subject to service law an offence in relation to which the warrant is sought.
- (9) In this section “relevant evidence”, in relation to an offence, means anything that would be admissible in evidence at a trial for the offence.
- (10) The Secretary of State may by order—
- (a) authorise the use, in connection with any application to a judicial officer for a warrant under this section, of live television links or similar arrangements, and

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- (b) make provision, in relation to warrants issued under this section to service policemen or entry and search under such a warrant, which is equivalent to that made by any provision of sections 15 and 16 of the 1984 Act (which relate to the issue to constables of warrants to enter and search premises), subject to such modifications as the Secretary of State thinks fit.]

#### Textual Amendments

- F1** Ss. 1-12 repealed (8.11.2006 for the purpose of the repeal of s. 1) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(1), [Sch. 17](#)
- F5** Words in s. 5(2)(a) substituted (1.1.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), [Sch. 7 para. 50](#); [S.I. 2005/3495](#), art. 2(1)(m)

#### Commencement Information

- I4** S. 5 in force at 30.9.2003 by [S.I. 2003/2268](#), [art. 2](#)

## 6 Special provisions as to access

[<sup>F1</sup>(1) The Secretary of State may by order enable a service policeman to obtain access to excluded material or special procedure material on relevant residential premises, for the purposes of an investigation of an offence to which section 5 applies, by making an application in accordance with the order to a judicial officer.

(2) An order under this section may, in particular—

- (a) provide for any provision of Schedule 1 to the 1984 Act (which relates to applications by constables to circuit judges for access to excluded material or special procedure material) to apply with specified modifications for the purposes of the order, and
- (b) authorise the use, in connection with any application made by virtue of the order, of live television links or similar arrangements.

(3) In this section “relevant residential premises” has the same meaning as in section 5.]

#### Textual Amendments

- F1** Ss. 1-12 repealed (8.11.2006 for the purpose of the repeal of s. 1) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(1), [Sch. 17](#)

#### Commencement Information

- I5** S. 6 in force at 30.9.2003 by [S.I. 2003/2268](#), [art. 2](#)

## 7 Power of commanding officer to authorise entry and search of certain premises

[<sup>F1</sup>(1) If an officer has reasonable grounds for believing—

- (a) that the conditions specified in paragraphs (a) to (e) of section 5(1) are satisfied in relation to—
- (i) service living accommodation of a person as respects whom the officer is commanding officer, or

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- (ii) other premises occupied as a residence (alone or with other persons) by a person who is subject to service law and as respects whom the officer is commanding officer, and
- (b) that it is likely that, if no search could be carried out before the earliest time by which it would be practicable—
  - (i) for a service policeman to obtain and execute a warrant under section 5 authorising the entry and search of the premises, or
  - (ii) in a case where a member of a United Kingdom police force could obtain a warrant under section 8 of the 1984 Act or any other enactment authorising the entry and search of the premises, for a member of such a force to obtain such a warrant,
 the purpose of the search would be frustrated or seriously prejudiced, the officer may authorise a service policeman or, subject to subsection (2), any other member of Her Majesty's forces to enter and search the premises.
- (2) An officer may not authorise a person other than a service policeman to exercise the powers conferred by subsection (1) unless—
  - (a) the premises to be searched consist of service living accommodation falling within section 15(1)(b) or (c), and
  - (b) it is likely that, if no search could be carried out before the earliest time by which it would be practicable to obtain the assistance of a service policeman, the purpose of the search would be frustrated or seriously prejudiced.
- (3) Subject to section 8, a person authorised under subsection (1) may seize and retain anything for which the search under this section was authorised.]

#### Textual Amendments

**F1** Ss. 1-12 repealed (8.11.2006 for the purpose of the repeal of s. 1) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(1), [Sch. 17](#)

#### Commencement Information

**I6** S. 7 in force at 30.9.2003 by [S.I. 2003/2268](#), [art. 2](#)

## 8 Review by judicial officer

- [<sup>F1</sup>(1) Where any property has been seized and retained during a search under section 7, the officer who authorised the search must as soon as practicable request a judicial officer to undertake a review of the search and of the seizure and retention of anything seized and retained during it.
- (2) In relation to a review under this section, a judicial officer shall have such powers and duties as may be prescribed by the Secretary of State by order.]

#### Textual Amendments

**F1** Ss. 1-12 repealed (8.11.2006 for the purpose of the repeal of s. 1) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(1), [Sch. 17](#)



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#### Commencement Information

**17** S. 8 in force at 30.9.2003 by [S.I. 2003/2268](#), [art. 2](#)

### 9 Entry for purpose of arrest etc

- [<sup>F1</sup>(1) Subject to the following provisions of this section, a service policeman may enter and search any relevant residential premises for the purpose—
- (a) of arresting a person under any of the services Acts, or
  - (b) of saving life or limb or preventing serious damage to property.
- (2) In subsection (1) “relevant residential premises” means—
- (a) service living accommodation, or
  - (b) other premises occupied as a residence (alone or with other persons) by a person who is subject to service law.
- (3) Subject to the following provisions of this section and without prejudice to any other enactment, a service policeman may enter and search any premises which are occupied as a residence (alone or with other persons) by a person to whom this subsection applies, for the purpose of arresting that person under any of the services Acts.
- [<sup>F6</sup>(4) Subsection (3) applies to a person who is reasonably suspected of having committed the offence in respect of which the arrest is to be made while subject to service law, but has ceased to be so subject.]
- (5) Except for the purpose specified in paragraph (b) of subsection (1), the powers of entry and search conferred by this section—
- (a) are only exercisable if the service policeman has reasonable grounds for believing that the person whom he is seeking is on the premises, and
  - (b) are limited, in relation to premises consisting of two or more separate dwellings, to powers to enter and search—
    - (i) any parts of the premises which the occupiers of any dwelling comprised in the premises use in common with the occupiers of any other such dwelling, and
    - (ii) any such dwelling in which the service policeman has reasonable grounds for believing that the person whom he is seeking may be.
- (6) The power of search conferred by this section is only a power to search to the extent that is reasonably required for the purpose for which the power of entry is exercised.
- (7) Subject to subsections (8) and (9), an officer may authorise a member of Her Majesty’s forces who is not a service policeman to exercise, in relation to premises consisting of—
- (a) service living accommodation of a person as respects whom the officer is commanding officer, or
  - (b) other premises occupied as a residence (alone or with other persons) by a person who is subject to service law and as respects whom the officer is commanding officer,
- the powers conferred by subsection (1) on a service policeman.
- (8) An officer may not authorise a person other than a service policeman to exercise the power conferred by subsection (1)(a) unless—

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- [<sup>F7</sup>(za) the arrest is to be made under section 74 of either of the 1955 Acts or section 45 of the 1957 Act, and]
- (a) the offence in respect of which the arrest is to be made is an offence to which section 5 applies, and
  - (b) the officer has reasonable grounds for believing that, if the arrest could not be made before the earliest time by which it would be practicable to obtain—
    - (i) the assistance of a service policeman, or
    - (ii) in a case where the powers conferred by section 17(1)(b) or (c) of the 1984 Act (entry for purposes of arrest) are exercisable by a member of a United Kingdom police force, the assistance of a member of such a force capable of exercising them,
 the person to be arrested might evade arrest, conceal, damage, alter or destroy evidence or be a danger to himself or to others, or discipline or morale among members of any of Her Majesty's forces might be undermined.
- (9) An officer may not authorise a person other than a service policeman to exercise the power conferred by subsection (1)(b) in relation to premises falling within subsection (2)(b) unless it is not practicable to obtain the assistance of a service policeman in time to take the necessary action to save life or limb or prevent serious damage to property.
- (10) The Defence Council may by regulations provide for the delegation by a commanding officer of his functions under this section.]

#### Textual Amendments

- F1** Ss. 1-12 repealed (8.11.2006 for the purpose of the repeal of s. 1) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(1), [Sch. 17](#)
- F6** S. 9(4) substituted (18.7.2008) by [Armed Forces \(Alignment of Service Discipline Acts\) Order 2008 \(S.I. 2008/1694\)](#), arts. 1, [14\(2\)](#)
- F7** S. 9(8)(za) inserted (18.7.2008) by [Armed Forces \(Alignment of Service Discipline Acts\) Order 2008 \(S.I. 2008/1694\)](#), arts. 1, [14\(3\)](#)

#### Commencement Information

- I8** S. 9 in force at 30.9.2003 by [S.I. 2003/2268](#), [art. 2](#)

### *Powers exercisable on arrest*

## 10 Search upon arrest

- [<sup>F1</sup>(1) A service policeman or the person exercising the power of arrest may search a person arrested under any of the services Acts if the service policeman or, as the case may be, the person making the arrest has reasonable grounds for believing that the arrested person may present a danger to himself or others.
- (2) Subject to subsections (4), (8) and (9), a service policeman shall also have power to search the arrested person for anything—
- (a) which he might use to assist him to escape from custody, or
  - (b) which might be evidence relating to an offence.

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- (3) For the purposes of the following provisions of this section, a thing is “ subject to search ” if it is something for which a search by a service policeman is permitted under subsection (2).
- (4) A service policeman may not search a person in the exercise of the power conferred by subsection (2) unless he has reasonable grounds for believing that the person to be searched may have concealed on him anything that is subject to search.
- (5) Subject to subsections (6) to (9), where a person (“ the arrested person ”) is to be or has been arrested under any of the services Acts by a person other than a service policeman, the commanding officer of the arrested person—
  - (a) may, if the commanding officer has reasonable grounds for believing that the arrested person may have concealed on him anything that is subject to search, order the person exercising the power of arrest, on or after exercising the power, to search the arrested person for anything that is subject to search, or
  - (b) may authorise the person exercising the power of arrest, on or after exercising the power, to search the arrested person for anything that is subject to search.
- (6) A commanding officer may not order or authorise the search of an arrested person under subsection (5)(a) or (b) unless he has reasonable grounds for believing that it is likely that, if the search could not be carried out before the earliest time by which it would be practicable to obtain assistance from—
  - (a) a service policeman, or
  - (b) in a case where the powers conferred by section 32 of the 1984 Act (search upon arrest) are exercisable by a member of a United Kingdom police force, a member of such a force capable of exercising those powers,the person who is to be or has been arrested would escape from custody or conceal, alter or destroy evidence.
- (7) A person authorised under paragraph (b) of subsection (5) may not search a person in the exercise of the power conferred by that paragraph unless he has reasonable grounds for believing that the arrested person may have concealed on him anything that is subject to search.
- (8) The power to search conferred by subsection (2) or (5) is only a power to search to the extent that is reasonably required for the purpose of discovering anything that is subject to search.
- (9) The power conferred by subsection (1), (2) or (5) is not to be construed as authorising the person exercising the power to require a person to remove any of his clothing in public other than an outer coat, jacket or gloves, but the power does authorise the search of a person’s mouth.
- (10) Any person searching another person in the exercise of the power conferred by subsection (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.
- (11) A service policeman or authorised person searching a person in the exercise of the power conferred by subsection (2) or (5) 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 lawful custody; or

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- (b) that it is evidence of an offence or has been obtained in consequence of the commission of an offence.
- (12) In subsection (11) “ authorised person ” means a person ordered under subsection (5) (a) or authorised under subsection (5)(b).
- (13) 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 [<sup>F8</sup>section 74 of either of the 1955 Acts or section 45 of the 1957 Act], which is equivalent to that made by any of the provisions of section 32 of the 1984 Act which relate to the power to enter and search premises, subject to such modifications as the Secretary of State thinks fit.
- (14) The power conferred by subsection (13) includes, in particular, power to apply any provision of section 32 of the 1984 Act relating to the power to enter and search premises, subject to modifications specified in the order.
- (15) The Defence Council may by regulations provide for the delegation by a commanding officer of his functions under this section.]

#### Textual Amendments

- F1** Ss. 1-12 repealed (8.11.2006 for the purpose of the repeal of s. 1) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(1), [Sch. 17](#)
- F8** Words in s. 10(13) substituted (18.7.2008) by [Armed Forces \(Alignment of Service Discipline Acts\) Order 2008 \(S.I. 2008/1694\)](#), arts. 1, [15](#)

#### Commencement Information

- I9** S. 10 in force at 30.9.2003 by [S.I. 2003/2268](#), [art. 2](#)

*Seizure etc.*

## 11 Power to make provision equivalent to that made by ss. 18 to 22 of Police and Criminal Evidence Act 1984

- [<sup>F1</sup>(1) The Secretary of State may by order make provision, in relation to premises occupied or controlled by a person who—
- (a) has been arrested under [<sup>F9</sup>section 74 of either of the 1955 Acts or section 45 of the 1957 Act], and
- (b) is being held in military, air-force or naval custody without being charged, which is equivalent to that made by any provision of section 18 of the 1984 Act (entry and search after arrest), subject to such modifications as the Secretary of State thinks fit.
- (2) The Secretary of State may by order make provision, in relation to—
- (a) a service policeman who is on any premises in the exercise of any power conferred by or under this Part, or
- (b) any power of seizure conferred by or under this Part, which is equivalent to that made by any provision of sections 19 to 21 of the 1984 Act (which relate to seizure) or section 22(1) to (4) of that Act (power to retain property seized), subject to such modifications as the Secretary of State thinks fit.
- (3) In subsection (1) “ charged ”—

*Status: Point in time view as at 18/07/2008.*

*Changes to legislation: There are currently no known outstanding effects for the Armed Forces Act 2001, Part 2. (See end of Document for details)*

- (a) in relation to a person held in military custody, is to be construed in accordance with section 75(4) of the Army Act 1955 (c. 18),
  - (b) in relation to a person held in air-force custody, is to be construed in accordance with section 75(4) of the Air Force Act 1955 (c. 19), and
  - (c) in relation to a person held in naval custody, is to be construed in accordance with section 47A(4) of the 1957 Act.
- (4) No provision made by virtue of this section affects the power conferred by section 12.]

#### Textual Amendments

- F1** Ss. 1-12 repealed (8.11.2006 for the purpose of the repeal of s. 1) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(1), [Sch. 17](#)
- F9** Words in s. 11(1) substituted (18.7.2008) by [Armed Forces \(Alignment of Service Discipline Acts\) Order 2008 \(S.I. 2008/1694\)](#), arts. 1, [15](#)

#### Commencement Information

- I10** S. 11 in force at 30.9.2003 by [S.I. 2003/2268](#), [art. 2](#)

## 12 Property in possession of service police or commanding officer

[<sup>F1</sup>(1) The Secretary of State may by regulations make provision with respect to the disposal of property which has come into the possession of a service policeman or a person's commanding officer in connection with the investigation of an offence.

- (2) The regulations may, in particular—
- (a) enable a court-martial, Standing Civilian Court or judicial officer to make an order for the delivery of the property to the person appearing to the court or judicial officer to be the owner of the property or, if the owner cannot be ascertained, to make such order with respect to the property as the court or judicial officer thinks fit,
  - (b) enable the commanding officer of a person charged with an offence against any of the services Acts—
    - (i) to determine that any property seized under this Part in connection with the investigation of an offence be delivered to the person appearing to the commanding officer to be the owner of the property, or
    - (ii) if the owner cannot be ascertained, to make such other determination with respect to the delivery of the property as the commanding officer considers appropriate,
  - (c) enable the commanding officer of a person—
    - (i) in whose possession the property was before it was seized under this Part, or
    - (ii) who claims to be the owner of the property,to determine that it should be delivered to that person,
  - (d) make provision as to appeals against orders made by virtue of paragraph (a) and determinations made by virtue of paragraph (b) or (c), and
  - (e) provide that, on the expiration of a specified period from the making of an order by virtue of paragraph (a), the right of any person to take proceedings for the recovery of the property is to cease.

*Status: Point in time view as at 18/07/2008.*

*Changes to legislation: There are currently no known outstanding effects for the Armed Forces Act 2001, Part 2. (See end of Document for details)*

- (3) A determination made by virtue of subsection (2)(b) or (c) does not bar the right of any person to recover any property delivered in pursuance of the determination from the person to whom it is delivered.]

**Textual Amendments**

- F1** Ss. 1-12 repealed (8.11.2006 for the purpose of the repeal of s. 1) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(1), [Sch. 17](#)

*Supplementary*

**13 Orders and codes of practice under s. 113 of Police and Criminal Evidence Act 1984**

- (1) Section 113 of the 1984 Act (application of Act to armed forces) is amended as follows.
- (2) In subsection (1) (which confers on the Secretary of State power by order to apply provisions of the 1984 Act to investigations etc under either of the 1955 Acts or under the 1957 Act) for “this Act” there is substituted “ Part 5 of this Act (or Part 11 of this Act so far as relating to that Part) ”.
- (3) In subsection (3) (which requires the Secretary of State to issue one or more codes of practice for persons other than police officers who are concerned with enquiries into offences under the 1955 Acts or the 1957 Act) for the words from “with” onwards there is substituted—
- “with—
- (a) the exercise of the powers conferred by Part 2 of the Armed Forces Act 2001, or
- (b) enquiries into offences under the Army Act 1955, the Air Force Act 1955 or the Naval Discipline Act 1957.”
- (4) In subsection (4) for the words “enquiries into such offences” there is substituted “ the powers mentioned in subsection (3)(a) above or the enquiries mentioned in subsection (3)(b) above ”.

**Commencement Information**

- I11** [S. 13](#) in force at 30.9.2003 by [S.I. 2003/2268](#), [art. 2](#)

**14 Power to use reasonable force**

Where a power is conferred on any person by or under this Part, the person on whom the power is conferred may use reasonable force, if necessary, in the exercise of the power.

**Commencement Information**

- I12** [S. 14](#) in force at 30.9.2003 by [S.I. 2003/2268](#), [art. 2](#)

*Status: Point in time view as at 18/07/2008.*

*Changes to legislation: There are currently no known outstanding effects for the Armed Forces Act 2001, Part 2. (See end of Document for details)*

## 15 Meaning of “service living accommodation”

- (1) Subject to subsection (2), in this Part “service living accommodation” means—
- (a) any building or part of a building which is occupied for the purposes of any of Her Majesty’s forces but is provided for the exclusive use of a person subject to service law, or of such a person and members of his family, as living accommodation or as a garage,
  - (b) any other room, structure or area (whether on land or on a vessel) which is occupied for the purposes of any of Her Majesty’s forces and is used for the provision of sleeping accommodation for one or more persons subject to service law, or
  - (c) any locker which—
    - (i) is provided by any of Her Majesty’s forces for personal use by a person subject to service law in connection with his sleeping accommodation, but
    - (ii) is not in a room, structure or area falling within paragraph (b).
- (2) Premises are not service living accommodation for the purposes of this Part if, or to the extent that, they are being used—
- (a) for holding persons in custody under any of the services Acts, or
  - (b) for the accommodation of persons serving military, air-force or naval sentences of detention or imprisonment.

### Commencement Information

**I13** S. 15 in force at 30.9.2003 by S.I. 2003/2268, art. 2

## 16 Part 2: supplementary provisions

- (1) In this Part—
- “the 1984 Act” means the Police and Criminal Evidence Act 1984 (c. 60);
  - “Commonwealth force” has the same meaning as in the 1955 Acts and the 1957 Act;
  - “controlled drug” has the meaning given by section 2 of the Misuse of Drugs Act 1971 (c. 38);
  - “the corresponding civil offence”, in relation to an offence against section 70 of either of the 1955 Acts or section 42 of the 1957 Act, means the civil offence (within the meaning of the Army Act 1955 (c. 18), the Air Force Act 1955 (c. 19) or the 1957 Act) the commission of which constitutes an offence under that section;
  - “excluded material” has the same meaning as in the 1984 Act;
  - “Her Majesty’s forces” does not include any Commonwealth force;
  - “items subject to legal privilege” has the same meaning as in the 1984 Act;
  - “judicial officer” means a judicial officer appointed under section 75L of either of the 1955 Acts or under section 47M of the 1957 Act;
  - “premises” includes any place and, in particular, includes—
    - (a) any vehicle, vessel, aircraft or hovercraft, and
    - (b) any tent or movable structure;
  - “the services Acts” means the 1955 Acts and the 1957 Act;

*Status: Point in time view as at 18/07/2008.*

*Changes to legislation: There are currently no known outstanding effects for the Armed Forces Act 2001, Part 2. (See end of Document for details)*

- “service living accommodation” has the meaning given by section 15;
- “service policeman” means a member of the Royal Navy Regulating Branch, the Royal Marines Police, the Royal Military Police or the Royal Air Force Police;
- “special procedure material” has the same meaning as in the 1984 Act;
- “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;
- “United Kingdom police force” means any of the following—
- (a) the Ministry of Defence Police,
  - (b) any police force maintained under section 2 of the Police Act 1996 (c. 16) (police forces in England and Wales outside London),
  - (c) the metropolitan police force,
  - (d) the City of London police force,
  - (e) any police force maintained under or by virtue of section 1 of the Police (Scotland) Act 1967 (c. 77), or
  - (f) the Police Service of Northern Ireland.
- (2) In this Part any reference to a person subject to service law is a reference to—
- (a) a person subject to military law, air-force law or the 1957 Act, or
  - (b) any other person to whom any provisions of Part 2 of the Army Act 1955 (c. 18), Part 2 of the Air Force Act 1955 (c. 19) or Parts 1 and 2 of the 1957 Act apply because he is a person falling within—
    - (i) section 209(1) or (2) of either of the 1955 Acts (application of Act to civilians), or
    - (ii) section 118(1) or (2) of the 1957 Act (application of Act to civilians).
- (3) This Part shall, to such extent and subject to such modifications as may be prescribed by regulations made by the Defence Council, apply to persons embarked as passengers on board Her Majesty’s ships or Her Majesty’s aircraft (not being persons who are subject to service law) as it applies to persons subject to service law.
- (4) In subsection (3), “Her Majesty’s ships” has the same meaning as in the Army Act 1955 and “Her Majesty’s aircraft” has the same meaning as in the Air Force Act 1955.
- (5) For the purposes of this Part “commanding officer”—
- (a) in relation to a person subject to military law, means the officer who would be that person’s commanding officer for the purposes of section 82 of the Army Act 1955 (c. 18) if he were charged with an offence;
  - (b) in relation to a person subject to air-force law, means the officer who would be that person’s commanding officer for the purposes of section 82 of the Air Force Act 1955 (c. 19) if he were charged with an offence;
  - (c) in relation to a person subject to the 1957 Act or a person falling within subsection (2)(b)(ii), means—
    - (i) the officer in command of the ship or naval establishment to which he belongs, or
    - (ii) any other person who by virtue of regulations under section 52E of that Act would be able to exercise the powers conferred by that Act on a commanding officer in relation to that person if he were charged with an offence;



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*Changes to legislation: There are currently no known outstanding effects for the Armed Forces Act 2001, Part 2. (See end of Document for details)*

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- (d) in relation to a person falling within subsection (2)(b)(i), means the person who is by virtue of regulations of the Defence Council made for the purposes of section 209(3)(f) of either of the 1955 Acts the commanding officer for the purposes of Part 2 of the Act in question in relation to him;
  - (e) in relation to a person falling within subsection (3), means such officer as may be determined by or under regulations of the Defence Council made for the purposes of that subsection.
- (6) For the purposes of this Part, the Provost Marshal of the Royal Air Force and any officer appointed to exercise the functions conferred by the Air Force Act 1955 on provost officers are to be taken to be members of the Royal Air Force Police.
- (7) Nothing in this Part limits—
- (a) any power of a service policeman or commanding officer to enter and search, or order the entry and search of, premises which are occupied for the purposes of any of Her Majesty’s forces, to the extent that the premises do not constitute service living accommodation,
  - (b) any power of a commanding officer, otherwise than in connection with the investigation of an offence or the exercise of any power of arrest, to enter and search, or order the entry and search of, service living accommodation,
  - (c) any power of a commanding officer, otherwise than in connection with the investigation of an offence or the exercise of any power of arrest, to search a person or to stop and search a service vehicle, or
  - (d) any power of a service policeman or commanding officer to search a service vehicle which is not in the charge of any person.
- (8) In subsection (7) “service vehicle” means a vehicle, vessel, aircraft or hovercraft which—
- (a) belongs to any of Her Majesty’s forces, or
  - (b) is in use for the purposes of any of those forces.

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**Commencement Information**

**I14** S. 16 in force at 30.9.2003 by S.I. 2003/2268, art. 2

**Status:**

Point in time view as at 18/07/2008.

**Changes to legislation:**

There are currently no known outstanding effects for the Armed Forces Act 2001, Part 2.