
STATUTORY INSTRUMENTS

1997 No. 15

DEFENCE

**The Police and Criminal Evidence Act 1984
(Application to the Armed Forces) Order 1997**

<i>Made</i>	- - - -	<i>8th January 1997</i>
<i>Laid before Parliament</i>		<i>9th January 1997</i>
<i>Coming into force</i>	- -	<i>1st February 1997</i>

The Secretary of State, in exercise of the powers conferred on him by section 113(1) of the Police and Criminal Evidence Act 1984⁽¹⁾, hereby makes the following Order:—

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Police and Criminal Evidence Act 1984 (Application to the Armed Forces) Order 1997 and shall come into force on 1st February 1997.

(2) In this Order “service policeman” means a member of the Royal Naval Regulating Branch, the Royal Marines Police, the Royal Military Police, the Royal Air Force Police or the staff of the Royal Air Force Provost Marshal.

Application

2.—(1) The provisions of the Police and Criminal Evidence Act 1984 which are specified in column 1 of the Schedule to this Order shall apply to the investigation of offences conducted by a service policeman under the Army Act 1955⁽²⁾, the Air Force Act 1955⁽³⁾ or the Naval Discipline Act 1957⁽⁴⁾ and to persons held in arrest in connection with such an investigation, subject to the modifications specified in column 2 of that Schedule.

(2) This Order applies wherever the investigation takes place.

(1) 1984 c. 60.
(2) 1955 c. 18.
(3) 1955 c. 19.
(4) 1957 c. 53.

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Revocation

3. The Police and Criminal Evidence Act 1984 (Application to Armed Forces) Order 1985⁽⁵⁾ and the Police and Criminal Evidence Act 1984 (Application to Armed Forces) (Amendment) Order 1990⁽⁶⁾ are revoked.

8th January 1997

James Arbuthnot
Minister of State, Ministry of Defence

⁽⁵⁾ S.I.1985/1882.
⁽⁶⁾ S.I. 1990/1448.

SCHEDULE

Article 2(1)

APPLICATION AND MODIFICATION OF POLICE AND CRIMINAL EVIDENCE ACT 1984

Column 1 Provisions applied	Column 2 Modifications
In section 54 — subsection (1)	<ul style="list-style-type: none"> (i) for the words “The custody officer at a police station” there shall be substituted the words “A service policeman”; (ii) after the word “recorded” there shall be inserted the words “in writing”; and, (iii) for the words following the words “when he” there shall be substituted the words “has been arrested under any of the service discipline Acts”;
subsection (3)	for the words “custody officer” there shall be substituted the words “service policeman”;
subsection (4)	for the words “the custody officer” there shall be substituted the words “a service policeman”;
subsection (5)	
subsection (6)	for the words “the custody officer” wherever they occur there shall be substituted the words “a service policeman”;
subsection (6A)	for the words “is in custody at a police station or is in police detention otherwise than at a police station” there shall be substituted the words “has been arrested”;
subsection (7)	
subsection (8)	<ul style="list-style-type: none"> (i) at the beginning of the subsection there shall be inserted the words “Subject to subsection (9),”; and (ii) for the word “constable” there shall be substituted the words “service policeman”;
subsection (9)	<ul style="list-style-type: none"> (i) for the word “constable” there shall be substituted the words “service policeman”; and (ii) after the word “searched” there shall be inserted the words “but where a service policeman of the same sex is not readily available a search may be carried out by an officer, warrant officer,, non-commissioned officer or leading rate who is of the same sex as the person searched and is acting under the direction of a service policeman”.

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Column 1 Provisions applied	Column 2 Modifications
In section 55 — subsection (1)	<ul style="list-style-type: none"> (i) for the words “officer of at least the rank of superintendent” there shall be substituted the words “authorising policeman”; (ii) the omission of the words “and is in police detention”; and (iii) for the words “in police detention or in the custody of a court” there shall be substituted the words “under arrest”;
subsections (2) and (3)	for the word “officer” wherever it occurs there shall be substituted the words “authorising policeman”;
subsection (4)	
subsection (5)	for the words “officer of at least the rank of superintendent” there shall be substituted the words “authorising policeman”;
subsections (6) and (7)	for the word “constable” wherever it occurs there shall be substituted the words “service policeman”;
subsections (8) and (9)	for the words “at a police station” wherever they occur there shall be substituted the words “at a service police establishment”;
subsection (10)	for the words “the custody record relating to him shall state” there shall be substituted the words “a record shall be made in writing by a service policeman stating”;
subsection (11)	
subsection (12)	for the words “The custody officer at a police station” there shall be substituted the words “A service policeman”;
subsection (13)	
subsection (17)	<ul style="list-style-type: none"> (i) for the word “officer” in the definition of “drug offence search” there shall be substituted the words “authorising policeman”; and (ii) after the word “nurse” in the definition of “suitably qualified person” there shall be inserted the words “or (c) a member of the Royal Naval Medical Branch.”.
In section 56 —	
subsection (1)	(i) the omission of the words “and is being held in custody in a police station or other premises”; and,

Column 1 Provisions applied	Column 2 Modifications
subsection (2)	<ul style="list-style-type: none"> (ii) for the words “and is being detained there” there shall be substituted “and where he is being detained”; (i) for the words “in police detention” there shall be substituted the words “under arrest”; (ii) for the words “serious arrestable offence” there shall be substituted the words “serious service offence”; and,
subsection (3)	<ul style="list-style-type: none"> (iii) for the words “officer of at least the rank of superintendent” there shall be substituted the words “authorising policeman”; (i) for the words “in custody” there shall be substituted the words “under arrest”; and (ii) for the words following the word “hours” there shall be substituted the words “from the time of his arrest”;
subsection (4)	for the word “officer” there shall be substituted the words “authorising policeman”;
subsection (5)	<ul style="list-style-type: none"> (i) the omission of the words “Subject to subsection (5A) below,”; (ii) for the words “an officer” there shall be substituted the words “An authorising policeman”; and (iii) for the words “serious arrestable offence” there shall be substituted the words “serious service offence”;
subsection (6)	for the words “noted on his custody record” there shall be substituted the words “recorded in writing by a service policeman”;
subsection (7)	
subsection (8)	<ul style="list-style-type: none"> (i) for the words “a person detained at a police station or other premises” there shall be substituted the words “an arrested person”; (ii) after the word “transferred” there shall be inserted the words “while under arrest”;
subsection (9)	
In section 58 —	
subsection (1)	<ul style="list-style-type: none"> (i) for the words “held in custody in a police station or other premises” there shall be substituted the words “being interviewed in connection with a serious service offence”; and

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Column 1 Provisions applied	Column 2 Modifications
subsection (2)	<ul style="list-style-type: none"> (ii) for the word “solicitor” there shall be substituted the words “legal adviser”; (i) the omission of the words “Subject to subsection (3) below,”; and (ii) for the words “the custody record” there shall be substituted the words “writing by a service policeman”;
subsection (4)	for the word “solicitor” there shall be substituted the words “legal adviser”;
subsection (6)	for the words after the word “permitted” there shall be substituted the words “if an authorising policeman authorises it”;
subsection (7)	for the word “officer” there shall be substituted the words “authorising policeman”;
subsection (8)	<ul style="list-style-type: none"> (i) the omission of the words “Subject to subsection (8A) below,”; (ii) for the word “officer” there shall be substituted the words “authorising policeman”; (iii) the words “in police detention” shall be omitted; and (iv) for the words “serious arrestable offence” there shall be substituted the words “serious service offence”;
subsection (9)	<ul style="list-style-type: none"> (i) the omission of the word “detained”; and (ii) for the words “noted on his custody record” there shall be substituted the words “recorded in writing by a service policeman”;
<p>subsections (10) and (11)</p> <p>In section 61 —</p>	
subsection (1)	
subsection (2)	the omission of the words “if it is given at a time when he is at a police station”;
subsection (3)	<ul style="list-style-type: none"> (i) for the words “detained at a police station” there shall be substituted the words “under arrest”; (ii) for the words “officer of at least the rank of superintendent” there shall be substituted the words “authorising policeman”; and

Column 1 Provisions applied	Column 2 Modifications
	(iii) for the words “a recordable offence” there shall be substituted the words “or reported for an offence under any of the service discipline Acts”;
subsection (4)	(i) for the word “officer” there shall be substituted the words “authorising policeman”; and (ii) for the words “a criminal offence” there shall be substituted the words “an offence”;
subsection (5)	for the word “officer” there shall be substituted the words “authorising policeman”;
subsection (6)	for the words after the word “convicted” there shall be substituted the words “or found guilty of an offence under the service discipline Acts”;
subsection (7)	after the word “recorded” there shall be inserted the words “in writing by a service policeman”;
subsection (7A)	(i) the omission of the words “at a police station”; (ii) for the words “an officer” there shall be substituted the words “a service policeman”; and (iii) after the word “recorded” there shall be inserted the words “in writing by a service policeman”.
In section 62 —	
subsection (1)	(i) for the words “in police detention” there shall be substituted the words “under arrest”; and (ii) for the words “a police officer of at least the rank of superintendent” there shall be substituted the words “an authorising policeman”;
subsection (1A)	(i) for the words “in police detention” there shall be substituted the words “under arrest”; and (ii) for the words “a police officer of at least the rank of superintendent” there shall be substituted the words “an authorising policeman”;
subsection (2)	(i) for the word “officer” there shall be substituted the words “authorising policeman”; and

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Column 1 Provisions applied	Column 2 Modifications
	(ii) for the words “recordable offence” there shall be substituted the words “serious service offence”;
subsection (3)	for the word “officer” there shall be substituted the words “authorising policeman”;
subsection (4)	
subsection (5)	for the words “an officer” there shall be substituted the words “a service policeman”;
subsection (6)	
subsection (7)	after the word “recorded” there shall be inserted the words “in writing by a service policeman”;
subsection (7A)	<ul style="list-style-type: none"> (i) the omission of the words “at a police station”; (ii) for the words “an officer” there shall be substituted the words “a service policeman”; and (iii) after the word “recorded” there shall be inserted the words “in writing by a service policeman”;
subsection (9)	after the words “medical practitioner” there shall be inserted the words “or by a member of a service medical authority”;
subsection (10)	after the word “jury” there shall be inserted the words “or any officer exercising jurisdiction under the service discipline Acts”.
In section 63 —	
subsections (1) and (2)	
subsection (3)	<ul style="list-style-type: none"> (i) for paragraph (a) there shall be substituted the following paragraph — <ul style="list-style-type: none"> “(a) he is under arrest”; and (ii) for the words “officer of at least the rank of superintendent” there shall be substituted the words “authorising policeman”;
subsection (3A)	<ul style="list-style-type: none"> (i) for the words “a recordable offence” there shall be substituted the words “or reported for a serious service offence”; and (ii) for the words “the police” there shall be substituted “a service policeman”;

Column 1 Provisions applied	Column 2 Modifications
subsection (3B)	for the words after the word “convicted” there shall be substituted the words “or found guilty of an offence under the service discipline Acts”;
subsection (4)	(i) for the word “officer” there shall be substituted the words “authorising policeman”; and (ii) for the words “recordable offence” there shall be substituted the words “serious service offence”;
subsection (5)	for the word “officer” there shall be substituted the words “authorising policeman”;
subsection (6)	for the words “an officer” there shall be substituted the words “a service policeman”;
subsection (7)	
subsections (8) and (8A)	after the word “recorded” wherever it occurs there shall be inserted the words “in writing by a service policeman”;
subsection (8B)	(i) the omission of the words “at a police station”; (ii) for the words “an officer” there shall be substituted the words “a service policeman”; and, (iii) after the word “recorded” there shall be inserted the words “in writing by a service policeman”.
In section 63A —	
subsection (1)	for the words “a recordable offence” there shall be substituted the words “an offence under the service discipline Acts”;
subsection (2)	
In section 64 —	
subsection (1)	
subsection (2)	for paragraph (b) there shall be substituted the following paragraph — “(b) it is decided that no proceedings under any of the service discipline Acts or any other proceedings are to be taken against him in respect of that offence.”;
subsections (3) to (6B)	
In section 65 —	(i) the insertion of “(1)” before the words “In this Part”;

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	<p>(ii) the insertion of the following definitions in the appropriate places —</p> <p>““authorising policeman” shall be construed in accordance with subsections (2) and (3) below;</p> <p>“legal adviser” means —</p> <p>(a) a person who has a general qualification within the meaning of section 71 of the Courts and Legal Services Act 1990;</p> <p>(b) an advocate or solicitor in Scotland;</p> <p>(c) a member of the Bar of Northern Ireland or a solicitor of the Supreme Court of Northern Ireland; or</p> <p>(d) a person having in any Commonwealth country or territory outside the United Kingdom rights and duties similar to those of a barrister or solicitor in England and subject to punishment or disability for a breach of professional rules;</p> <p>“serious service offence” means an offence under any of the service discipline Acts which cannot be dealt with summarily or which appears to a service policeman to be serious;</p> <p>“service discipline Acts” means the Army Act 1955, the Air Force Act 1955 and the Naval Discipline Act 1957;</p> <p>“service medical authority” means the Royal Army Medical Corps, the Royal Army Dental Corps,, Queen Alexandra’s Royal Army Nursing Corps,, the Royal Air Force Medical Branch,, the Royal Air Force Dental Branch, Princess Mary’s Royal Air Force Nursing Service, the Royal Naval Medical Branch, the Royal Naval Dental Branch or Queen Alexandra’s Royal Naval Nursing Service;</p> <p>“service policeman” means a member of the Royal Naval Regulating Branch, the Royal</p>

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Column 1 Provisions applied	Column 2 Modifications
In section 117 —	<p>Marines Police,, the Royal Military Police, the Royal Air Force Police or the staff of the Royal Air Force Provost Marshal.”; and</p> <p>(iii) the insertion of the following subsections —</p> <p>“(2) Subject to subsection (3) below,, no person shall act as an authorising policeman unless he is a service policeman of or above the rank of Lieutenant (Royal Navy), Captain (Army) or Flight Lieutenant (Royal Air Force).</p> <p>(3) In any case where it is not practicable to comply with the provisions of subsection (2) above, any service policeman may act as an authorising policeman so long as he is senior in rank to the service policeman seeking authorisation.</p> <p>(4) Except for the purposes of the provisions in section 55 above (intimate searches), in any case where it is not practicable for a service policeman to seek the authorisation of an authorising policeman,, a service policeman may act as if such an authorisation had been given if he has reasonable grounds for believing or suspecting the matters which an authorising policeman is required to have reasonable grounds for believing or suspecting.”.</p> <p>for the expressions “constable”, “police officer”, or “officer”, wherever they appear, there shall be substituted the expression “service policeman”.</p>

EXPLANATORY NOTE

(This note is not part of the Order)

This Order, which comes into force on 1st February 1997, applies the provisions of the sections of the Police and Criminal Evidence Act 1984 (the Act) which are specified in column 1 of

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the Schedule, concerning questioning and treatment of persons by the police, to investigations of offences conducted by the Service police under the Army Act 1955, the Air Force Act 1955 or the Naval Discipline Act 1957 and to persons arrested under any of those Acts. The application of the provisions is subject to the modifications set out in column 2 of the Schedule.

It revokes the Police and Criminal Evidence Act 1984 (Application to Armed Forces) Order 1985 (as amended), which applied sections 58, 59, 61, 62, 63, 64 and 117 of the Act with modifications, and substantially re-enacts it. The main change is that authorisation for certain of the procedures should, where possible, be given by a senior authorising policeman rather than by the investigating service policeman himself. Sections 54, 55, 56 and 63A of the Act are being applied with modifications for the first time.

Section 54 makes provision for the search of persons in arrest and for a record to be made of everything that a person in arrest has with him.

Section 55 makes provision for an intimate search to be conducted of a person in arrest subject to certain conditions.

Section 56 makes provision for a person in arrest to have the right to have someone informed of his arrest.

Section 58 makes provision for persons held in arrest, if they so request, to consult a legal adviser without delay, unless delay is authorised for certain limited purposes.

Section 61 makes provision for fingerprints to be taken from a person in arrest, in certain circumstances without his consent.

Section 62 makes provision for intimate samples to be taken from a person in arrest provided he consents, with provision for inferences to be drawn from his refusal to consent.

Section 63 makes provision for non-intimate samples to be taken from a person in arrest, in certain circumstances without his consent.

Section 63A makes provision for service policemen to check samples taken against central police records.

Section 64 provides for the destruction of fingerprints and samples.

Additional definitions are inserted in section 65.

Section 117 provides for the use of reasonable force by service policemen in exercising their powers under the Act.