
EXPLANATORY NOTE

(This note is not part of the Order)

This Order deals primarily with the powers of service police under Part 2 of the Armed Forces Act 2001 (“the Act”) relating to persons subject to service law. The main provisions are, subject to modifications, equivalent to certain provisions of the Police and Criminal Evidence Act 1984 (“PACE”) relating to powers of entry, search and seizure.

Articles 3 and 4 make provision which, subject to modifications, is equivalent to section 2 and 3 of PACE. Article 3 makes provision as to the information that a service policeman must give to the person whom he proposes to search, or the person in charge of the vehicle which he proposes to search, under section 2 of the Act. Article 3 also provides for the information that a service policeman must leave in an unattended vehicle which he has searched under section 2 of the Act. Article 4 concerns the records that must be made after a search under section 2 of the Act has been carried out.

Under article 5, articles 3 and 4 apply to searches carried out by persons authorised to do so under section 4 of the Act as they apply to such searches carried out by service policemen under section 2 of the Act.

Article 6 and Schedule 1 make provision which, subject to modifications, is equivalent to Schedule 1 to PACE. They deal with access to “excluded material” and “special procedure material” as defined in PACE.

Article 7 enables a service policeman who is making an application to a judicial officer for a search warrant under section 5 of the Act or under Schedule 1 to this Order, or for an order under Schedule 1, to do so by live television link or similar arrangements.

Articles 8 and 9 make provision which, subject to modifications, is equivalent to sections 15 and 16 of PACE. There are further modifications in article 10. Those articles relate to the application for and execution of search warrants issued under section 5 of the Act or Schedule 1 to this Order.

Article 11 and Schedule 2 make provision as to the oath to be administered to a service policeman when he is required under article 8(4) to answer questions on oath.

Article 12 makes provision which, subject to modifications, is equivalent to section 32 of PACE in so far as that section relates to the entry and search without a warrant of premises in which a person was when or immediately before he was arrested. Article 13 makes provision which, subject to modifications, is equivalent to section 18 of PACE. That article relates to the entry and search without a warrant of premises occupied by an arrested person.

Articles 14 to 17 make provision which, subject to modifications, is equivalent to sections 19 to 21 and 22(1) to (4) of PACE. Those articles relate to the general power of seizure from searched premises, the powers of seizure in respect of computerised information, and access to, copying of and retention of anything seized under the provisions of this Order or Part 2 of the Act.