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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order makes provision with respect to the Armed Forces equivalent, subject to modifications, to provisions of the Police and Criminal Evidence Act 1984 (“the 1984 Act”), and principally its Part 5.

Article 3 provides for who may act as an “authorising service policeman”, able to give authorisations under this Order.

Article 4 requires a service policeman to establish everything an arrested person has with him when under arrest or committed to service custody, and provides for the seizure and retention of things found. It specifies the grounds on which clothing and personal effects may be seized, provides for the search of persons in service custody and requires reasons for the search to be given except in prescribed circumstances.

Article 5 provides that in specified circumstances arrested persons may be examined for marks that would tend to identify them. Authorisation must have been given by an authorising service policeman and a photograph may be taken of any identifying mark found.

Article 6 permits an authorising service policeman to authorise intimate searches of persons who are in service custody, if he has reasonable grounds for believing that the person has anything with him that he may use to cause injury, or a Class A drug concealed on him which he intended to supply. Article 6 includes procedural requirements as to the authorisation of searches, the giving of consent, the persons who may conduct the search, and the written records which must be made. Provision is also made for the seizure and retention of items found.

Article 7 permits an authorising service policeman to authorise the x-ray or ultrasound examination of a person in service custody who is reasonably believed to have swallowed a class A drug which he previously intended to supply. Consent is required, but a court may draw inferences if consent is refused without good cause.

Article 8 confers on a person in service custody the right, exercisable within a specified period, to have a friend, relative or other person informed as soon as practicable of his arrest and where he is being held in custody. Delay is only permitted when authorised by an authorising service policeman on specified grounds. Delay is no longer permissible when the ground for it ceases to apply. The right may be exercised whenever the person is transferred in service custody from one place to another.

Under article 9 a person who is held in service custody has the right to consult privately with a legal adviser at any time. This must be allowed unless an authorising service policeman authorises a delay on specified grounds. Access must, in any event, be granted within 36 hours of arrest. Delay is no longer permissible when the reason for it has ceased to exist.

Article 10 provides for the taking of fingerprints from a person by the service police with written consent from him or, as the case may be, from his parent or guardian. It also provides for the circumstances in which a service policeman may take fingerprints without consent from persons in service custody before or after charge. In the latter case the person must be given a reason for fingerprinting and must be told that his fingerprints may be used for a speculative search. A service policeman must make a written record of the fact that he has complied with this requirement.

Article 11 permits the taking of impressions of a person’s footwear with, and in certain circumstances without, his consent. If the impression is taken at a service police establishment, whether with or without consent, it may be used for a speculative search and the person must be informed of this.

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

Article 12 requires a service policeman to obtain authorisation from an authorising service policeman and the consent of the individual before an intimate sample may be taken and specifies who may obtain the sample. It states the conditions that must be met before authorisation can be given and requires that the authorisation, the grounds on which it was given and the consent be recorded in writing. The suspect must be told that the sample may be used for a speculative search; a service policeman must record in writing that he has informed the suspect of this. If the suspect refuses to provide the sample without good reason, adverse inferences may if appropriate be drawn by a court.

Article 13 provides for the obtaining of non-intimate samples with written consent. Such samples may also, subject to certain conditions, be obtained without consent from persons under arrest for or charged with an applicable service offence, or when convicted of a recordable service offence. Where the person is in service custody before charge, the authority of an authorising service policeman is required. The grounds on which that authority may be given and how it is to be recorded are specified. The person required to give the sample must be told of the authorisation and the grounds for it. Such samples may also be obtained from persons who have been made the subject of a hospital order.

Article 14 permits the checking of fingerprints, samples and footwear impressions obtained from persons arrested for, or charged with, an applicable service offence, or information derived from such samples, against fingerprints, samples, footwear impressions or information held by other law enforcement authorities. If the person has not been arrested for or charged with such an offence, his fingerprints, sample, footwear impressions or associated information may only be checked in this way if he has given written consent which, once given, may not be withdrawn. Article 14 also gives a service policeman the power to require a person who is not in service custody, but who has been charged with, or convicted of, certain service offences, to attend a service police establishment to provide a sample if certain conditions are met. The time for complying with the requirement is specified and a service policeman may arrest without warrant a person who fails to comply.

Article 15 requires the destruction of fingerprints, footwear impressions or samples as soon as they have fulfilled their purpose if the individual is not suspected of having committed the offence. Where he is so suspected, or where he has been convicted of the offence, fingerprints and samples can be retained but may only be used for limited purposes listed in the article. If the person is entitled to the destruction of the fingerprints, footwear impressions or sample, they may not be used in evidence or during investigations and the person can witness the destruction or receive a certificate confirming that destruction has taken place. A person may, however, consent to the retention by the service police of his fingerprints or sample. Where a person is not convicted of a service offence, a time limit applies under this article to the period for which fingerprints, footwear impressions or samples may be retained.

Under Article 16, a service policeman may photograph persons held in service custody with or without consent. Items worn on the head or face may be removed for this purpose. Such photographs may be used by or disclosed to any person for purposes related to the investigation or prosecution of offences under the Act.

Article 17 authorises a service policeman to use reasonable force, if necessary, in the exercise of any power unless the power is subject to the consent of some person other than the service policeman.

Article 18 provides for the revocation of the Order which previously applied provisions of the 1984 Act to the Armed Forces. Article 19 and Schedule 2 make transitional provision between the Order revoked and this Order.