
STATUTORY INSTRUMENTS

2013 No. 1852

The Armed Forces (Retrial for Serious Offences) Order 2013

PART 3

Investigation and arrest

Urgent investigative steps

5.—(1) Article 4 does not prevent a service policeman from taking any action for the purposes of an investigation if—

- (a) the action is necessary as a matter of urgency to prevent the investigation being substantially and irrevocably prejudiced;
- (b) the requirements of paragraph (2) are met; and
- (c) either—
 - (i) the action is authorised under paragraph (3); or
 - (ii) the requirements of paragraph (5) are met.

(2) The requirements of this paragraph are met if—

- (a) there has been no undue delay in applying for consent under article 4(2);
- (b) that consent has not been refused; and
- (c) taking into account the urgency of the situation, it is not reasonably practicable to obtain that consent before taking action.

(3) A service policeman of or above the rank of lieutenant-commander, major or squadron leader may authorise the action if—

- (a) he is satisfied that new evidence has been obtained which would be relevant to an application under article 8(1) in respect of the qualifying offence to which the investigation relates; or
- (b) he has reasonable grounds for believing that such new evidence is likely to be obtained as a result of the investigation.

(4) An authorisation under paragraph (3) must—

- (a) if reasonably practicable, be given in writing;
- (b) otherwise, be recorded in writing by the service policeman giving it as soon as is reasonably practicable.

(5) The requirements of this paragraph are met if—

- (a) there has been no undue delay in applying for authorisation under paragraph (3);
- (b) that authorisation has not been refused; and
- (c) taking into account the urgency of the situation, it is not reasonably practicable to obtain that authorisation before taking the action.

(6) Where the requirements of paragraph (5) are met, the action is nevertheless to be treated as having been unlawful unless, as soon as reasonably practicable after the action is taken, a service policeman of or above the rank of lieutenant-commander, major or squadron leader certifies in writing that he is satisfied that, when the action was taken—

- (a) new evidence had been obtained which would be relevant to an application under article 8(1) in respect of the qualifying offence to which the investigation relates; or
- (b) the service policeman who took the action had reasonable grounds for believing that such new evidence was likely to be obtained as a result of the investigation.