
DRAFT STATUTORY INSTRUMENTS

2008 No.

**The Armed Forces (Alignment of
Service Discipline Acts) Order 2008**

Powers of arrest

8. For subsections (2) and (3) of section 45 of the 1957 Act⁽¹⁾ (power to arrest offenders) substitute—

“(2) A person who is reasonably suspected of being engaged in committing, or of having committed, any such offence may be arrested in accordance with subsection (3), (4), (5) or (6) by a person subject to this Act or to military or air-force law.

(3) An officer may be arrested under subsection (2)—

- (a) by an officer of superior rank or, if engaged in a mutiny, quarrel or disorder, by an officer of any rank;
- (b) by a service policeman; or
- (c) on the order of another officer, by a person who is lawfully exercising authority on behalf of a provost officer.

(4) A person of or below the rate of warrant officer may be arrested under subsection (2)

- (a) by an officer;
- (b) by a warrant officer or non-commissioned officer of superior rank or rate;
- (c) by a service policeman;
- (d) by a person who is lawfully exercising authority on behalf of a provost officer; or
- (e) if a member of a ship’s company or an embarked force, by a person exercising authority as a member of the staff of the officer of the day.

(5) A person to whom any provisions of Parts 1 and 2 of this Act apply by virtue of section 117 or 118 of this Act (application of Act to passengers in HM ships and aircraft and to civilians) may be arrested under subsection (2)—

- (a) by an officer;
- (b) by a service policeman; or
- (c) by a person who is lawfully exercising authority on behalf of a provost officer.

(6) Where none of subsections (3) to (5) applies in relation to the person to be arrested, that person may be arrested under subsection (2) by a service policeman.

(7) The power of arrest conferred on any person by this section may be exercised—

- (a) personally;
- (b) by giving orders for the arrest of the person who is to be arrested; or

⁽¹⁾ Section 45 of the 1957 Act was amended by the Armed Forces Act 1971 (c. 33), Schedule 3, paragraph 5(1).

- (c) where that person is subject to this Act or to military or air-force law, by ordering him into arrest.”