



Armed Forces Act 2001

2001 CHAPTER 19

PART 2

POWERS OF ENTRY, SEARCH AND SEIZURE

Powers exercisable on arrest

10 Search upon arrest

- (1) A service policeman or the person exercising the power of arrest may search a person arrested under any of the services Acts if the service policeman or, as the case may be, the person making the arrest has reasonable grounds for believing that the arrested person may present a danger to himself or others.
- (2) Subject to subsections (4), (8) and (9), a service policeman shall also have power to search the arrested person for anything—
 - (a) which he might use to assist him to escape from custody, or
 - (b) which might be evidence relating to an offence.
- (3) For the purposes of the following provisions of this section, a thing is “subject to search” if it is something for which a search by a service policeman is permitted under subsection (2).
- (4) A service policeman may not search a person in the exercise of the power conferred by subsection (2) unless he has reasonable grounds for believing that the person to be searched may have concealed on him anything that is subject to search.
- (5) Subject to subsections (6) to (9), where a person (“the arrested person”) is to be or has been arrested under any of the services Acts by a person other than a service policeman, the commanding officer of the arrested person—
 - (a) may, if the commanding officer has reasonable grounds for believing that the arrested person may have concealed on him anything that is subject to search, order the person exercising the power of arrest, on or after exercising the power, to search the arrested person for anything that is subject to search, or

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- (b) may authorise the person exercising the power of arrest, on or after exercising the power, to search the arrested person for anything that is subject to search.
- (6) A commanding officer may not order or authorise the search of an arrested person under subsection (5)(a) or (b) unless he has reasonable grounds for believing that it is likely that, if the search could not be carried out before the earliest time by which it would be practicable to obtain assistance from—
 - (a) a service policeman, or
 - (b) in a case where the powers conferred by section 32 of the 1984 Act (search upon arrest) are exercisable by a member of a United Kingdom police force, a member of such a force capable of exercising those powers, the person who is to be or has been arrested would escape from custody or conceal, alter or destroy evidence.
- (7) A person authorised under paragraph (b) of subsection (5) may not search a person in the exercise of the power conferred by that paragraph unless he has reasonable grounds for believing that the arrested person may have concealed on him anything that is subject to search.
- (8) The power to search conferred by subsection (2) or (5) is only a power to search to the extent that is reasonably required for the purpose of discovering anything that is subject to search.
- (9) The power conferred by subsection (1), (2) or (5) is not to be construed as authorising the person exercising the power to require a person to remove any of his clothing in public other than an outer coat, jacket or gloves, but the power does authorise the search of a person's mouth.
- (10) Any person searching another person in the exercise of the power conferred by subsection (1) may seize and retain anything he finds, if he has reasonable grounds for believing that the person searched might use it to cause physical injury to himself or to any other person.
- (11) A service policeman or authorised person searching a person in the exercise of the power conferred by subsection (2) or (5) may seize and retain anything he finds, other than an item subject to legal privilege, if he has reasonable grounds for believing—
 - (a) that the person searched might use it to assist him to escape from lawful custody; or
 - (b) that it is evidence of an offence or has been obtained in consequence of the commission of an offence.
- (12) In subsection (11) “authorised person” means a person ordered under subsection (5) (a) or authorised under subsection (5)(b).
- (13) The Secretary of State may by order make provision, in relation to premises in which a person was when or immediately before he was arrested under any of the services Acts, which is equivalent to that made by any of the provisions of section 32 of the 1984 Act which relate to the power to enter and search premises, subject to such modifications as the Secretary of State thinks fit.
- (14) The power conferred by subsection (13) includes, in particular, power to apply any provision of section 32 of the 1984 Act relating to the power to enter and search premises, subject to modifications specified in the order.

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- (15) The Defence Council may by regulations provide for the delegation by a commanding officer of his functions under this section.