



Armed Forces Act 2006

2006 CHAPTER 52

PART 3

POWERS OF ARREST, SEARCH AND ENTRY

CHAPTER 4

SUPPLEMENTARY

94 Property in possession of service police or CO

- (1) The Secretary of State may by regulations make provision with respect to the disposal of property which has come into the possession of a service policeman or a person's commanding officer in connection with the investigation of a service offence.
- (2) The regulations may in particular—
 - (a) enable the Court Martial, the Service Civilian Court or a judge advocate to make an order for the delivery of the property to the person appearing to the court or judge advocate to be the owner of the property or, if the owner cannot be ascertained, to make such order with respect to the property as the court or judge advocate considers appropriate;
 - (b) enable the commanding officer of a person charged with a service offence—
 - (i) to determine that any property seized under this Part in connection with the investigation of a service offence should be delivered to the person appearing to the commanding officer to be the owner of the property; or
 - (ii) if the owner cannot be ascertained, to make such other determination with respect to the delivery of the property as the commanding officer considers appropriate;
 - (c) enable the commanding officer of a person—
 - (i) in whose possession the property was before it was seized under this Part, or

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- (ii) who claims to be the owner of the property, to determine that it should be delivered to that person;
 - (d) make provision as to appeals against orders made by virtue of paragraph (a) and determinations made by virtue of paragraph (b) or (c); and
 - (e) provide that, at the end of a specified period from the making of an order by virtue of paragraph (a), the right of any person to take proceedings for the recovery of the property is to cease.
- (3) A determination made by virtue of subsection (2)(b) or (c) does not affect the right of any person to recover any property delivered in pursuance of the determination from the person to whom it is delivered.

Commencement Information

- I1** S. 94 in force at 28.3.2009 for specified purposes by [S.I. 2009/812](#), [art. 3\(a\)\(b\)](#) (with transitional provisions in [S.I. 2009/1059](#))
- I2** S. 94 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

[^{F1}94A Property subject to deprivation order: modification of section 94

- (1) This section applies to property to which a deprivation order relates which is in the possession of—
- (a) a commanding officer, or
 - (b) a member of a service police force,
- by virtue of section 177C(6) (including any such property that was already in the possession of the commanding officer or a member of a service police force when the order was made).
- (2) Regulations under section 94(1) must ensure that a judicial authority or a commanding officer may make an order by virtue of section 94(2)(a) or (b) (respectively) on an application which—
- (a) relates to property to which this section applies, and
 - (b) is made by a person claiming to be the owner of the property, only if the conditions in subsection (3) are met.
- (3) Those conditions are that—
- (a) the application is made before the end of the period of 6 months beginning with the day on which the deprivation order is made, and
 - (b) the claimant satisfies the judicial authority or the commanding officer (as the case may be)—
 - (i) that the claimant did not consent to the offender’s possession of the property, or
 - (ii) if the deprivation order was made by virtue of subsection (3) of section 177C (property used for the purpose of offence etc), that the claimant did not know, and had no reason to suspect, that the property was likely to be used for a purpose mentioned in that subsection.
- (4) Regulations under section 94(1) may enable a judicial authority or a commanding officer to make any order for disposal of property to which this section applies that the judicial authority or commanding officer (as the case may be) thinks appropriate (but this is subject to subsection (6)).

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- (5) In subsection (4) the reference to disposal includes disposal by way of transferring the property into the ownership of the Secretary of State; but regulations made by virtue of subsection (4) may not provide for the Secretary of State to become the owner of property which is the subject of an order under section 177F (application of proceeds of property subject to deprivation order).
- (6) Subsection (4) applies only in relation to cases where no application by virtue of section 94(2)(a) or (b) made during the 6 month period mentioned in subsection (3)(a) by a person claiming to be the owner of the property was successful.
- (7) In this section “judicial authority” means the Court Martial, the Service Civilian Court or a judge advocate.]

Textual Amendments

- F1** S. 94A inserted (1.5.2022 for specified purposes, 22.11.2023 in so far as not already in force) by Armed Forces Act 2021 (c. 35), ss. 14(5), 24(1); S.I. 2022/471, reg. 2(f); S.I. 2023/1102, reg. 3

95 Saving provision

- (1) Nothing in this Part affects—
- (a) any power of a service policeman or commanding officer to enter and search, or order the entry and search of, premises which are occupied for the purposes of any of Her Majesty's forces, to the extent that the premises do not constitute service living accommodation;
 - (b) any power of a commanding officer, otherwise than in connection with the investigation of a service offence or the exercise of any power of arrest, to enter and search, or order the entry and search of, service living accommodation;
 - (c) any power of a commanding officer, otherwise than in connection with the investigation of a service offence or the exercise of any power of arrest, to search, or order the search of, a person or to stop and search, or order the stop and search of, a service vehicle; or
 - (d) any power of a service policeman or commanding officer to search, or order the search of, a service vehicle which is not in the charge of any person.
- (2) In subsection (1) “service vehicle” means a vehicle, ship or aircraft which—
- (a) belongs to any of Her Majesty's forces; or
 - (b) is in use for the purposes of any of those forces.

Commencement Information

- I3** S. 95 in force at 28.3.2009 for specified purposes by S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059)
- I4** S. 95 in force at 31.10.2009 in so far as not already in force by S.I. 2009/1167, art. 4

96 “Service living accommodation”, “premises” and other definitions

- (1) In this Part “service living accommodation” means (subject to subsection (2))—

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- (a) any building or part of a building which is occupied for the purposes of any of Her Majesty's forces but is provided for the exclusive use of a person [^{F2}within subsection (1A)], or of such a person and members of his family, as living accommodation or as a garage;
- (b) any other room, structure or area (whether on land or on a ship) which is occupied for the purposes of any of Her Majesty's forces and is used for the provision of sleeping accommodation for one or more persons [^{F3}within subsection (1A)]; or
- (c) any locker which—
 - (i) is provided by any of Her Majesty's forces for personal use by a person [^{F4}within subsection (1A)] in connection with his sleeping accommodation, but
 - (ii) is not in a room, structure or area falling within paragraph (b).

[^{F5}(1A) The following are persons within this subsection—

- (a) a person subject to service law;
 - (b) a civilian subject to service discipline.]
- (2) Premises are not service living accommodation for the purposes of this Part if, or to the extent that, they are being used for keeping persons in service custody.
- (3) In this Part “premises” includes any place and, in particular, includes—
- (a) any vehicle, ship or aircraft; and
 - (b) any tent or movable structure.
- (4) In this Part “enactment” includes any provision of—
- (a) an Act of the Scottish Parliament or Northern Ireland legislation, or
 - (b) an instrument made under such an Act or under Northern Ireland legislation, and also includes any rule of law in Scotland.

Textual Amendments

- F2** Words in s. 96(1)(a) substituted (2.4.2012) by [Armed Forces Act 2011 \(c. 18\)](#), s. 32(3), [Sch. 3 para. 4\(2\)](#); [S.I. 2012/669](#), art. 4(d)
- F3** Words in s. 96(1)(b) substituted (2.4.2012) by [Armed Forces Act 2011 \(c. 18\)](#), s. 32(3), [Sch. 3 para. 4\(2\)](#); [S.I. 2012/669](#), art. 4(d)
- F4** Words in s. 96(1)(c) substituted (2.4.2012) by [Armed Forces Act 2011 \(c. 18\)](#), s. 32(3), [Sch. 3 para. 4\(2\)](#); [S.I. 2012/669](#), art. 4(d)
- F5** S. 96(1A) inserted (2.4.2012) by [Armed Forces Act 2011 \(c. 18\)](#), s. 32(3), [Sch. 3 para. 4\(3\)](#); [S.I. 2012/669](#), art. 4(d)

Commencement Information

- I5** S. 96 in force at 28.3.2009 for specified purposes by [S.I. 2009/812](#), [art. 3\(a\)\(b\)](#) (with transitional provisions in [S.I. 2009/1059](#))
- I6** S. 96 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

97 Power to use reasonable force

[^{F6}(1)] Where a power is conferred on any person by or under this Part, he may use reasonable force, if necessary, in the exercise of the power.

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[^{F7}(2) Subsection (1) does not apply in relation to powers conferred by Chapter 3A of this Part.]

Textual Amendments

- F6** S. 97(1): s. 97 renumbered as s. 97(1) (1.11.2013) by [Armed Forces Act 2011 \(c. 18\)](#), s. 32(3), **Sch. 4 para. 8(1)**; [S.I. 2013/2501](#), art. 3(d)
- F7** S. 97(2) inserted (1.11.2013) by [Armed Forces Act 2011 \(c. 18\)](#), s. 32(3), **Sch. 4 para. 8(2)**; [S.I. 2013/2501](#), art. 3(d)

Commencement Information

- I7** S. 97 in force at 28.3.2009 for specified purposes by [S.I. 2009/812](#), **art. 3(a)(b)** (with transitional provisions in [S.I. 2009/1059](#))
- I8** S. 97 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

Changes to legislation:

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Changes and effects yet to be applied to :

- specified provision(s) transitional provisions for effects of commencing SI 2009/812 by [S.I. 2009/1059 Order](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Pt. 12A inserted by [2016 c. 21 s. 7](#)
- Pt. 16B inserted by [2023 c. 48 s. 1](#)
- s. 50(2)(ca) inserted by [2011 c. 18 Sch. 4 para. 3\(3\)](#) (This amendment not applied to [legislation.gov.uk](#). Sch. 4 para. 3(3) repealed (8.3.2015) without ever being in force by [2014 c. 12, Sch. 11 para. 82\(2\)](#); [S.I. 2015/373, art. 2\(g\)\(ii\)](#))
- s. 209(8) inserted by [2021 c. 11 Sch. 13 para. 41\(3\)](#)
- s. 213(3A) words inserted by [2021 c. 11 Sch. 13 para. 41\(6\)](#)
- s. 218A(6A) inserted by Sch. 26 para. 12(1)(db) (as inserted) by [S.I. 2020/1520 reg. 6\(2\)\(b\)](#)
- s. 218A(6A) words omitted by virtue of [2020 c. 17, Sch. 26 para. 12\(1\)\(dc\)](#) (as inserted) by [S.I. 2020/1520 reg. 6\(2\)\(b\)](#)
- s. 219A(1)(d)(i) omitted by virtue of [2020 c. 17, Sch. 26 para. 14\(a\)\(i\)](#) (as substituted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(b\)](#)
- s. 219A(1)(d)(iii) omitted by virtue of [2020 c. 17, Sch. 26 para. 14\(a\)\(i\)](#) (as substituted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(b\)](#)
- s. 219A(1)(da) inserted by [2021 c. 11 Sch. 13 para. 41\(7\)](#)
- s. 219A(1)(da)(i) omitted by virtue of [2020 c. 17, Sch. 26 para. 14\(a\)\(ii\)](#) (as substituted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(b\)](#)
- s. 219A(2A) inserted by [2020 c. 17, Sch. 26 para. 14\(bb\)](#) (as inserted) by [S.I. 2020/1520 reg. 6\(3\)](#)
- s. 219ZA inserted by [2021 c. 11 Sch. 8 para. 2](#)
- s. 219ZA(1)(e) words omitted by virtue of [2020 c. 17, Sch. 26 para. 13A\(a\)](#) (as inserted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(a\)](#)
- s. 219ZA(4)-(6) omitted by virtue of [2020 c. 17, Sch. 26 para. 13A\(b\)](#) (as inserted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(a\)](#)
- s. 219ZA(7) words omitted by virtue of [2020 c. 17, Sch. 26 para. 13A\(c\)](#) (as inserted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(a\)](#)
- s. 223(1A) inserted by [2021 c. 11 Sch. 13 para. 41\(8\)\(a\)](#)
- s. 224A(1)(d)(iii) and word inserted by [2021 c. 11 Sch. 13 para. 41\(9\)\(a\)\(ii\)](#)
- s. 224A(1)(d)(iii) words substituted by [2020 c. 17, Sch. 26 para. 15\(a\)\(iii\)](#) (as inserted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(c\)](#)
- s. 224A(1A) inserted by [2021 c. 11 Sch. 8 para. 8\(4\)](#)
- s. 224A(3A) inserted by [2021 c. 11 Sch. 13 para. 41\(9\)\(b\)](#)
- s. 224B inserted by [2021 c. 11 Sch. 8 para. 9](#)
- s. 225(1A) inserted by [2020 c. 17, Sch. 26 para. 15A](#) (as inserted) by [S.I. 2020/1520 reg. 6\(4\)](#)
- s. 226(1A) inserted by [2020 c. 17, Sch. 26 para. 15B](#) (as inserted) by [S.I. 2020/1520 reg. 6\(4\)](#)
- s. 227(3)(a)(b) substituted for words by [2021 c. 11 Sch. 13 para. 41\(10\)](#)
- s. 238(6)(a) word omitted by [2021 c. 11 Sch. 13 para. 41\(11\)\(a\)](#)
- s. 238(6)(b) word substituted by [2021 c. 11 Sch. 13 para. 41\(11\)\(c\)](#)
- s. 238(6)(aa) inserted by [2021 c. 11 Sch. 13 para. 41\(11\)\(b\)](#)

- s. 239(3A)(3B) inserted by [2021 c. 11 Sch. 8 para. 3](#)
- s. 239(3A) words omitted by virtue of 2020 c. 17, Sch 26 para. 18(a)(i) (as inserted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(d\)](#)
- s. 239(3A) words omitted by virtue of 2020 c. 17, Sch 26 para. 18(a)(ii) (as inserted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(d\)](#)
- s. 239(3B) words omitted by virtue of 2020 c. 17, Sch 26 para. 18(b) (as inserted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(d\)](#)
- s. 260(1)(ca) inserted by [2021 c. 11 Sch. 13 para. 41\(14\)\(a\)\(ii\)](#)
- s. 260(1)(ca) words omitted by virtue of 2020 c. 17, Sch. 26 para. 19(a)(iia) (as inserted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(e\)\(i\)](#)
- s. 260(4B)(a) words omitted by virtue of 2020 c. 17, Sch. 26 para. 19(b)(ii) (as substituted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(e\)\(ii\)](#)
- s. 260(4B)(za) inserted by [2021 c. 11 Sch. 13 para. 41\(14\)\(b\)](#)
- s. 260(4B)(za) words omitted by virtue of 2020 c. 17, Sch. 26 para. 19(b)(i) (as substituted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(e\)\(ii\)](#)
- s. 261(1)(ba) inserted by [2021 c. 11 Sch. 13 para. 41\(15\)](#)
- s. 261(1)(ba) words omitted by virtue of 2020 c. 17, Sch. 26 para. 20(c) (as inserted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(f\)](#)
- s. 261A(3)(a) words in s. 261A(3) renumbered as s. 261A(3)(a) by [2021 c. 11 Sch. 8 para. 4\(a\)](#)
- s. 261A(3)(b)(c) inserted by [2021 c. 11 Sch. 8 para. 4\(b\)](#)
- s. 261A(3)(b) words omitted by virtue of 2020 c. 17, Sch. 26 para. 20A(a) (as inserted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(g\)](#)
- s. 261A(3)(c)(i) words omitted by virtue of 2020 c. 17, Sch. 26 para. 20A(b) (as inserted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(g\)](#)
- s. 262A(2A) inserted by [2021 c. 11 Sch. 13 para. 41\(16\)\(a\)](#)
- s. 262A(2A)(b) omitted by virtue of 2020 c. 17, Sch. 26 para. 21(a) (as substituted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(h\)](#)
- s. 262A(3A) inserted by [2021 c. 11 Sch. 13 para. 41\(16\)\(b\)](#)
- s. 262A(3A) omitted by virtue of 2020 c. 17, Sch. 26 para. 21(b) (as substituted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(h\)](#)
- s. 262A(4) words inserted by [2021 c. 11 Sch. 13 para. 41\(16\)\(c\)\(i\)](#)
- s. 262A(4) words inserted by [2021 c. 11 Sch. 13 para. 41\(16\)\(c\)\(ii\)](#)
- s. 262A(4) words omitted by virtue of 2020 c. 17, Sch. 26 para. 21(c) (as substituted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(h\)](#)
- s. 270A270B inserted by [2008 c. 4 Sch. 25 para. 27](#) (This amendment not applied to legislation.gov.uk. Sch. 25 para. 26(3)(4) repealed (2.4.2012) by 2011 c. 18, Sch. 3 para. 20(3), Sch. 5; S.I. 2012/669, art. 4(d)(f) (with art. 13))
- s. 270B(6)(aa) inserted by [2009 c. 25 Sch. 17 para. 9\(2\)](#) (This amendment not applied to legislation.gov.uk. Sch. 17 para. 9 repealed (2.4.2012) without ever being in force by 2011 c. 18, Sch. 5; S.I. 2012/669, art. 4(f))
- s. 270B(10) word repealed by [2009 c. 25 Sch. 23 Pt. 5](#)
- s. 270B(10)(a) words inserted by [2009 c. 25 Sch. 17 para. 9\(3\)\(a\)](#) (This amendment not applied to legislation.gov.uk. Sch. 17 para. 9 repealed (2.4.2012) without ever being in force by 2011 c. 18, Sch. 5; S.I. 2012/669, art. 4(f))
- s. 270B(10)(b) words substituted by [2009 c. 25 Sch. 17 para. 9\(3\)\(b\)](#) (This amendment not applied to legislation.gov.uk. Sch. 17 para. 9 repealed (2.4.2012) without ever being in force by 2011 c. 18, Sch. 5; S.I. 2012/669, art. 4(f))
- s. 270B(10)(c)-(e) inserted by [2009 c. 25 Sch. 17 para. 9\(3\)\(c\)](#) (This amendment not applied to legislation.gov.uk. Sch. 17 para. 9 repealed (2.4.2012) without ever being in force by 2011 c. 18, Sch. 5; S.I. 2012/669, art. 4(f))
- s. 304B inserted by [2016 c. 21 s. 8](#)
- s. 304C inserted by [2016 c. 21 s. 9](#)
- s. 304C(5A) inserted by [2021 c. 11 Sch. 8 para. 5](#)
- s. 304C(5A) words omitted by virtue of 2020 c. 17, Sch. 26 para. 24A(a) (as inserted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(i\)](#)
- s. 304C(5A) words substituted by 2020 c. 17, Sch. 26 para. 24A(b) (as inserted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(i\)](#)

- s. 304D inserted by [2016 c. 21 s. 10](#)
- s. 304E inserted by [2016 c. 21 s. 11](#)
- s. 304F-304H inserted by [2016 c. 21 s. 12](#)
- s. 377(8) inserted by 2020 c. 17, Sch. 26 para. 26 (as inserted) by [S.I. 2020/1520 reg. 6\(5\)](#)
- Sch. 7 para. 9(A1) inserted by [2020 c. 9 Sch. 2 para. 123\(8\)\(a\)](#) (This pre-consolidation amendment comes into force immediately before the consolidation date on 1.12.2020 (see 2020 c. 9, ss. 3, 5(2)(3) and 2020 c. 17, ss. 2, 416) to facilitate the sentencing consolidation and then is repealed immediately afterwards on 1.12.2020 by the Sentencing Act 2020 (c. 17), Sch. 28; S.I. 2020/1236, reg. 2)