
STATUTORY INSTRUMENTS

2008 No. 1698

DEFENCE

The Armed Forces (Entry, Search and Seizure) (Amendment) Order 2008

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| <i>Made</i> | - - - - | <i>27th June 2008</i> |
| <i>Laid before Parliament</i> | | <i>1st July 2008</i> |
| <i>Coming into force</i> | - - | <i>21st July 2008</i> |

The Secretary of State makes the following Order in exercise of the powers conferred by sections 10(13), 11(1) and 31(3) of the Armed Forces Act 2001⁽¹⁾:

Citation and commencement

1. This Order may be cited as the Armed Forces (Entry, Search and Seizure) (Amendment) Order 2008, and shall come into force on 21st July 2008.

Amendments to the 2003 Order

2.—(1) Article 12 of the Armed Forces (Entry, Search and Seizure) Order 2003⁽²⁾ (entry and search of premises in which a person was when or immediately before he was arrested) is amended as follows.

(2) In paragraph (1), for “any of the services Acts” substitute “section 74 of either of the 1955 Acts or section 45 of the 1957 Act”.

(3) For paragraph (6)(b)(ii) substitute—

“(ii) a person reasonably suspected of having committed an offence against any provision of the services Acts while subject to service law.”.

3. In article 13(1) of that Order (entry and search of premises occupied or controlled by an arrested person), for “any of the services Acts” substitute “section 74 of either of the 1955 Acts or section 45 of the 1957 Act”.

(1) 2001 c. 19.

(2) S.I. 2003/2273, to which there are amendments not relevant to this Order.

Amendments to the 2006 Order

4.—(1) Article 2 of the Armed Forces (Entry, Search and Seizure) Order 2006(3) (*interpretation) is amended as follows.

(2) For paragraph (2) substitute—

“(2) In relation to a time when seized property is in any person’s possession in consequence of a seizure (“the relevant time”), references in this Order to something for which the person making the seizure had power to search shall be construed in accordance with paragraphs (3) to (6).”

(3) In each of paragraphs (3) to (6), for “relevant property” substitute “a reference mentioned in paragraph (2)”.

(4) For sub-paragraphs (a) and (b) of paragraph (8) substitute—

- “(a) if the premises are a building or part of a building within section 15(1)(a) of the 2001 Act, the person subject to service law for whose use (whether alone or with members of his family) as living accommodation or as a garage the building or part of a building is provided;
- (b) if the premises are a room, structure or area within section 15(1)(b) of that Act, any person for whom the premises are used to provide sleeping accommodation; and
- (c) if the premises are a locker within section 15(1)(c) of that Act, the person for whose personal use the locker is provided.”

5. In article 3(5) of that Order (additional powers of seizure from premises), for “paragraph (2)” substitute “paragraph (3)”.

6. In article 4(5) of that Order (additional powers of seizure from the person), for “paragraph (2)” substitute “paragraph (3)”.

27th June 2008

Derek Twigg
Parliamentary Under Secretary of State
Ministry of Defence

EXPLANATORY NOTE

(This note is not part of the Order)

Article 12 of the Armed Forces (Entry, Search and Seizure) Order 2003 confers power to enter and search premises in which a person has been arrested under the [Army Act 1955 \(c. 18\)](#), the [Air Force Act 1955 \(c. 19\)](#) or the [Naval Discipline Act 1957 \(c. 53\)](#), and article 13 of that Order confers power to enter and search premises occupied or controlled by a person who has been so arrested. The Armed Forces (Alignment of Service Discipline Acts) Order 2008 ([S.I. 2008/1694](#)) amends the 1955 Acts and the 1957 Act by inserting in each of them a new provision enabling a service policeman to arrest a person reasonably suspected of being *about* to commit a service offence. Articles 2(2) and 3 of this Order make consequential amendments to articles 12 and 13 of the 2003 Order, so that the powers of entry and search conferred by those articles do not apply in relation to a person arrested under this new power.

Article 12(6) of the 2003 Order defines the premises that may be searched under that article as including premises occupied as a residence by a person in relation to whom the power of arrest is exercisable only by virtue of section 131 of either of the 1955 Acts or section 51 of the 1957 Act. These provisions confer power to arrest a person who was formerly subject to service law and is suspected of having committed an offence while so subject. The Armed Forces (Alignment of Service Discipline Acts) Order 2008 amends them so that the power to arrest such a person derives not from them but from the same provisions that confer power to arrest a person who is still subject to service law. Article 2(3) of this Order makes a consequential amendment to article 12(6) of the 2003 Order.

The Armed Forces (Entry, Search and Seizure) Order 2006 makes provision in relation to powers of seizure which broadly corresponds to Part 2 of the [Criminal Justice and Police Act 2001 \(c. 16\)](#). Articles 4 to 6 of this Order correct certain drafting errors in that Order.