
STATUTORY INSTRUMENTS

2009 No. 1059

**The Armed Forces Act 2006
(Transitional Provisions etc) Order 2009**

PART 7

ARREST, SEARCH AND ENTRY

Powers of entry, search and seizure

33.—(1) Where an application has been made under section 5(1) of AFA 2001 (application for warrant authorising entry and search of premises) and has not been granted, refused or withdrawn before commencement, the application has effect after commencement as if made under section 83(1)(a) of AFA 2006.

(2) Where, immediately before commencement, a warrant issued under section 5(1) of AFA 2001 has effect, the warrant has effect after commencement as if issued under section 83(1) of AFA 2006.

(3) Where, immediately before commencement, a person was under section 5(3) or 7(3) of AFA 2001 retaining a seized item, he may continue to retain it after commencement (subject, in the case of seizure under section 7(3) of AFA 2001, to section 89 of AFA 2006 as modified by this article).

(4) In section 84(2)(a) of AFA 2006 (authorisation of entry and search)—

- (a) the reference to an offence under section 42 of that Act includes an SDA civil offence;
- (b) the reference to the corresponding offence under the law of England and Wales includes the corresponding civil offence.

(5) Where, immediately before commencement, an authorisation under section 7(1) of AFA 2001 has effect (authorisation of entry and search), the authorisation has effect after commencement—

- (a) if given to a service policeman, as if given under section 87(1) of AFA 2006;
- (b) otherwise, as if given under section 88(1) of that Act.

(6) In section 89 of AFA 2006 (review by judge advocate of certain searches), the reference to a search under section 87 or 88 of that Act includes a search under section 7 of AFA 2001 as respects which no request for review has been made under section 8 of that Act.

(7) Where a review has been requested under section 8 of AFA 2001 and the review has not been completed before commencement, the request has effect after commencement as if made under section 89(1) of AFA 2006.

(8) An authorisation under section 9(7) of AFA 2001 (entry and search for the purpose of arrest etc) of the exercise of the powers conferred by section 9(1)(a) of that Act on a service policeman has effect after commencement as if given under section 91(1) of AFA 2006.

(9) An authorisation under section 9(7) of AFA 2001 of the exercise of the powers conferred by section 9(1)(b) of that Act on a service policeman has effect after commencement as if given under section 91(5) of AFA 2006.

(10) In section 92 of AFA 2006 (power to make provision conferring powers of entry and search after arrest), the reference to section 67 includes a reference to section 74 of AA 1955 or AFA 1955 or section 45 of NDA 1957.

(11) In section 93 of AFA 2006 (power to make provision conferring power of seizure etc), the reference to any power of retention conferred by or under Part 3 of that Act includes any power of retention conferred by article 31(6) or (7) or paragraph (3).

(12) In section 94 of AFA 2006 (property in possession of service police or CO) any reference to seizure under Part 3 of that Act includes seizure under Part 2 of AFA 2001.

Changes to legislation:

There are currently no known outstanding effects for the The Armed Forces Act 2006 (Transitional Provisions etc) Order 2009, Section 33.