

ARMED FORCES ACT 2001

EXPLANATORY NOTES

THE ACT - COMMENTARY ON SECTIONS

Part 2 – Powers of Entry, Search and Seizure

Section 15: Meaning of “service living accommodation”

52. **Section 15** defines service living accommodation. The definition is important, because persons who may need to conduct a search in a particular case must be clear whether they need to apply for a warrant. The definition is complex because of the need to include all the different sorts of living accommodation in which the Services may find themselves in such a way that different powers may be related to some types of accommodation but not others. The first part of the definition refers to Service accommodation for the particular use of an individual or an individual and his or her family. This would cover a family quarter, but not a barrack dormitory.
53. However, on board ship, in barracks or on operations, accommodation may well be shared, for example in a room containing bunk beds, with lockers for personal effects sometimes in a separate area such as a corridor. Despite the communal nature of these arrangements, every person is considered to have a private living space of some sort. In both individual and shared accommodation a warrant under section 5 will generally be needed to search in connection with the investigation of an offence. The powers of commanding officers under section 7 to authorise searches other than by the Service police are only exercisable over shared Service accommodation.
54. The section excludes from this definition any area where a person is being held in custody, detention or imprisonment.