

ARMED FORCES ACT 2001

EXPLANATORY NOTES

THE ACT - COMMENTARY ON SECTIONS

Part 2 – Powers of Entry, Search and Seizure

Section 2: Powers to stop and search persons, vehicles, etc.

20. This section gives the Service police the power to stop and search anyone reasonably believed to be subject to the SDAs, any vehicle driven by such a person and any Service vehicle in the charge of any person. The power may only be exercised if the Service policeman has reasonable grounds for suspecting that he will find stolen or prohibited articles (very broadly, offensive weapons, other than those possessed for Service reasons, and things which could be used for theft or similar offences), unlawfully obtained stores or controlled drugs. The section is based on section 1 of the Police and Criminal Evidence Act 1984. Like section 1 of the 1984 Act, it allows stop and search in public places. It also allows stop and search in places occupied or controlled by any of the armed forces, and this includes vessels, aircraft and hovercraft (section 2(1)(c) and the definition of “premises” in section 16). “Premises” include bases of any of those forces, except those parts which are defined (in section 15 of the Act) as service living accommodation.
21. With the increased employment by the armed forces of civilian contractors, it is not unusual for Service vehicles to be driven by civilians who are not subject to Service law. These drivers cannot be searched as they are not subject to the SDAs. However, the vehicles may be searched, if there are reasonable grounds for doing so. Although the driver is free to go, in practice the act of stopping and searching a Service vehicle may result in the driver being detained. The section allows for this detention.
22. The section also gives a Service policeman the power to seize any articles he finds if he reasonably suspects that they are stolen, prohibited, etc.