

ARMED FORCES ACT 2001

EXPLANATORY NOTES

THE ACT - COMMENTARY ON SECTIONS

Part 2 – Powers of Entry, Search and Seizure

Section 6: Special provisions as to access

31. **Section 6** allows the Secretary of State to make orders to establish procedures that would enable Service policemen investigating an offence under the SDAs to apply to a judicial officer for a warrant for access to excluded or special procedure material that is held in any premises for which a search warrant is needed, i.e. premises used as living accommodation for service purposes or the homes of persons subject to the SDAs. The section corresponds to section 9 of the Police and Criminal Evidence Act 1984, and “excluded material” and “special procedure material” have the same definitions (under section 16) as in the 1984 Act. As mentioned in paragraph 29 above, there is no power under section 5 to search for such material. Special procedures, including extra safeguards, apply under the 1984 Act to obtaining a warrant to search for such materials. Excluded material includes, for example, personal records, such as medical records, if held in confidence, and also journalist’s materials if held in confidence. An example of special procedure material would be journalist’s material not held in confidence.
32. The section allows the civilian procedure for applying for this type of warrant to be adapted for use in the Service discipline system, with modifications, to enable the application procedure to work effectively within that system. The section also allows for application procedures to include the use of live television links.