



# Armed Forces Act 2011

## 2011 CHAPTER 18

### *Powers of entry, search and seizure*

#### **7 Power of judge advocate to authorise entry and search**

For section 83 of AFA 2006 (power of judge advocate to authorise entry and search) substitute—

##### **“83 Power of judge advocate to authorise entry and search**

- (1) On an application made by a service policeman, a judge advocate may, if the relevant requirements are met, issue a warrant authorising a service policeman to enter and search—
  - (a) one or more sets of premises specified in the application; or
  - (b) any relevant residential premises occupied or controlled by a person specified in the application, including such sets of premises as are so specified.
- (2) The relevant requirements are met (subject to subsection (3)) if the judge advocate is satisfied that each set of premises specified in the application is relevant residential premises and that there are reasonable grounds for believing—
  - (a) that a relevant offence has been committed;
  - (b) that material which is likely to be of substantial value (whether by itself or together with other material) to the investigation of the offence is—
    - (i) in the case of a warrant authorising entry and search of specified premises, on those premises;
    - (ii) in the case of a warrant authorising entry and search of any relevant residential premises occupied or controlled by a specified person, on one or more sets of such premises occupied or controlled by that person;
  - (c) that the material would be likely to be admissible in evidence at a trial for the offence;

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*Status: This is the original version (as it was originally enacted).*

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- (d) that it does not consist of or include items subject to legal privilege, excluded material or special procedure material; and
  - (e) that at least one of the conditions specified in subsection (4) applies in relation to each set of premises specified in the application.
- (3) If the application is for a warrant authorising entry and search of any relevant residential premises occupied or controlled by a specified person, the judge advocate must also be satisfied—
- (a) that, because of the particulars of the offence mentioned in subsection (2)(a), there are reasonable grounds for believing that in order to find the material mentioned in subsection (2)(b) it is necessary to search relevant residential premises that are occupied or controlled by the person in question and are not specified in the application; and
  - (b) that it is not reasonably practicable to specify in the application all the relevant residential premises that the person occupies or controls and that might need to be searched.
- (4) The conditions mentioned in subsection (2)(e) are—
- (a) that it is not practicable to communicate with any person entitled to grant entry to the premises;
  - (b) that it is practicable to communicate with a person entitled to grant entry to the premises, but it is not practicable to communicate with any person entitled to grant access to the evidence;
  - (c) that entry to the premises will not be granted unless a warrant is produced;
  - (d) in the case of service living accommodation within section 96(1)(b) or (c)—
    - (i) that it is not practicable to communicate with the person or (as the case may be) any of the persons for whom the accommodation is provided; or
    - (ii) that there is no such person with whom it is practicable to communicate who will agree to grant access to the accommodation without the production of a warrant;
  - (e) that the purpose of a search may be frustrated or seriously prejudiced unless a service policeman arriving at the premises can secure immediate entry to them.
- (5) A warrant under this section may authorise entry to and search of premises on more than one occasion if, on the application for the warrant, the judge advocate is satisfied that it is necessary to authorise multiple entries in order to achieve the purpose for which the warrant is issued.
- (6) If the warrant authorises multiple entries, the number of entries authorised may be unlimited, or limited to a maximum.
- (7) A service policeman may seize and retain anything for which a search has been authorised under subsection (1).”

## **8 Power to make provision about access to excluded material etc**

- (1) Section 86 of AFA 2006 (power to make provision about access to excluded material etc) is amended as follows.

(2) For subsections (1) and (2) substitute—

“(1) The Secretary of State may by order make provision that enables a service policeman, for the purposes of an investigation of a relevant offence and by making an application to a judge advocate in accordance with the order—

- (a) to obtain access to excluded material or special procedure material on relevant residential premises; or
- (b) to obtain access to material (other than items subject to legal privilege) on premises other than relevant residential premises.

(2) An order under this section (an “enabling order”) may in particular—

- (a) so far as it relates to obtaining access to material on relevant residential premises, make provision equivalent to any provision of Schedule 1 to PACE (special procedure for obtaining production orders and warrants);
- (b) so far as it relates to obtaining access to material on premises other than relevant residential premises, make provision equivalent to any provision of paragraphs 1 to 11 of that Schedule (special procedure for obtaining production orders);
- (c) make provision equivalent to section 311(2) and (3) of this Act (certification to civil court of offences akin to contempt) in relation to a failure by a person within section 309(6) to comply with an order made by a judge advocate under the enabling order;
- (d) authorise the use, in connection with any application made by virtue of the enabling order, of live television or telephone links or similar arrangements.

(2A) Any power under subsection (2) to make provision which is equivalent to another provision includes power to make provision which is equivalent subject to such modifications as the Secretary of State considers appropriate.”

(3) For subsection (4) substitute—

“(4) In this section the following expressions have the meanings given by section 84—

- “excluded material”;
- “items subject to legal privilege”;
- “relevant offence”;
- “special procedure material”.