

# **ARMED FORCES ACT 2011**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

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

30. Section 83 of AFA 2006 empowers a judge advocate, in specified circumstances, to issue a warrant authorising a service policeman to enter and search premises. It is based on section 8 of the Police and Criminal Evidence Act 1984 (“PACE”), which empowers a justice of the peace to issue a warrant upon the application of a constable.
31. PACE has been amended by the Serious Organised Crime and Police Act 2005. In particular, section 8 of PACE now enables a constable to apply for an “all premises warrant” if it is necessary to search all premises occupied or controlled by a particular person, but it is not practicable to identify all such premises at the time of the application. An all premises warrant authorises entry to all premises occupied or controlled by the person specified, whether or not specifically identified in the application. Section 83 of AFA 2006 is based on section 8 of PACE as it stood before the amendments made by the 2005 Act, and so does not permit the issue of all premises warrants.
32. As amended by the 2005 Act, section 8 of PACE also makes provision in relation to the issue of a warrant authorising entry to and search of premises on more than one occasion (a “multiple entry warrant”). Again these provisions were not reflected in section 83 of AFA 2006 as originally enacted.
33. **Section 7** substitutes a new section 83 in AFA 2006. The new section mirrors section 8 of PACE, as amended, in relation to both all premises warrants and multiple entry warrants. However, the new section 83, like the current one, permits the issue of warrants only for the search of “relevant residential premises”. These are defined by section 84(3) of AFA 2006 as “service living accommodation” (defined by section 96(1), which is amended by paragraph 4 of Schedule 3 to the Act: see paragraph 151 below), or premises occupied as a residence by a person subject to service law, a “civilian subject to service discipline” (explained in the note on section 22), or a person suspected of having committed an offence in relation to which the warrant is sought. Even an all premises warrant does not permit the search of premises which are not relevant residential premises.