

NOTICE OF POWERS AND RIGHTS
FOR ENTRY AND SEARCH WITH COMMANDING OFFICERS AUTHORISATION BY A
MEMBER OF HM FORCES WHO IS NOT A SERVICE POLICEMAN

The following is a summary of the powers of a person (other than a Service Policeman) to enter and search premises under the provisions of the Armed Forces Act 2006 (the Act).

Entry and search with Commanding Officers authorisation¹.

In accordance with **section 88 of the Act** the Commanding Officer (CO) is able to authorise a person subject to Service law who is not a Service policeman to enter and search premises under specific circumstances. This power can only be used to enter and search living accommodation².

In accordance with **section 91 of the Act** the CO is able to authorise a person subject to Service law who is not a Service Policeman to enter and search premises³ for the purpose of arrest. This section also enables a CO to authorise a person subject to Service law (other than a Service policeman) to exercise the powers of entry for the purpose of saving life or limb or preventing serious damage to property.

Reasonable Force and Timings.

In the exercise of the power to enter and search, the co-operation of the occupier is to be sought in the first instance where practicable and unless obtaining consent would frustrate the purposes of the exercise. The person authorised by the CO may use the minimum force necessary to enter the premises and carry out the search. Entry and search should be made at a reasonable hour. (In matters of urgency, a reasonable hour may be an unsociable hour).

Seizure of property

The person authorised by the CO who is searching any premises may seize and retain anything for which the search was authorised. Anything seized may be retained only for as long as is necessary. Property should not be retained if a copy or image would be sufficient.

¹ These are powers authorised by a Commanding Officer under the Act. They are not authorised by Judicial Warrant.

² For **s88 of the Act** the Commanding Officer can only authorise entry and search of property that is the 'service living accommodation' (SLA) of a person who is within his command and; either a person subject to service law (PSSL) or a civilian subject to service discipline (CSSD). For this purpose SLA is limited to; a room, structure or area (whether on land or ship) which are occupied by any of HM Forces and are used for the provision of sleeping accommodation for one or more PSSL or CSSD; and any lockers that are not part of such premises but are provided by any of HM Forces for personal use by a PSSL or CSSD in connection with his sleeping accommodation. .

³ For **s91 of the Act** the Commanding Officer can only authorise entry to property that is SLA of a PSSL or CSSD within his command; or premises (any place including any vehicle, ship or aircraft and any tent or movable structure) that are, or which he reasonably believes to be, occupied as a residence (alone or with others) by such a person. For this section SLA includes any building or part of a building occupied for the purpose of HM Forces but provided for the exclusive use of a PSSL or CSSD (or such a person and his family) as living accommodation or as a garage. This is in addition to any room, structure or area (on land or on a ship) which is occupied by any of HM Forces and used for the provision of sleeping accommodation for one or more PSSL or CSSD and lockers that are not part of such premises but are provided by any of HM Forces for personnel use by such a person in connection with his sleeping accommodation.

In the event that property is seized the occupier or their representative should be allowed supervised access to the property to examine or photograph it, or should be provided with a photograph or copy, in either case within a reasonable time following any request and at their own expense, unless the CO has reasonable grounds for believing this would prejudice:

- The investigation;
- The investigation of an offence other than the offence being investigated and for which the thing was seized; or
- Any criminal proceedings or any Service proceedings which may be brought as a result of any investigation referred to above.

Where material is seized under a relevant power certain people may make an application to a judge advocate for the return of the whole or part of the seized property⁴.

Documentation

A copy of the CO's Authorisation should be given to you before the search begins. If you are not present a copy will be left in a prominent place together with a copy of this Notice of Powers and Rights.

Protection of Freedoms Act 2012 - Powers of Entry - Code of Practice.

A copy of the Powers of Entry Code of Practice is available in JSP 830 (the Manual of Service Law) or at [Powers of Entry - Code of Practice \(www\)](#)

Compensation

Compensation may be payable in appropriate circumstances for damage caused in entering or searching the premises. Any application for compensation should be addressed to the CO authorising the search as soon as practicable.

Complaints

In the event that you wish to raise a complaint this should be addressed in the first instance to the CO authorising the search or you may wish to raise a Service complaint in accordance with JSP 831 Redress of Individual Grievance.

Note:

This form is handed to the occupier of the premises searched, or if unoccupied, left on the premises.

⁴ The Armed Forces (Powers of Stop and Search, Search, Seizure and Retention) Order 2009, Article 28.