



Armed Forces Act 2001

2001 CHAPTER 19

PART 4

MISCELLANEOUS AND GENERAL

Testing for alcohol or drugs

33 Interpretation of s. 32

- (1) The provisions of this section have effect for the interpretation of section 32.
- (2) “Drug” means—
 - (a) a controlled drug as defined by section 2 of the Misuse of Drugs Act 1971 (c. 38), or
 - (b) any other drug, or description of drug, specified in an order made by the Secretary of State for the purposes of this paragraph.
- (3) “Sample” means—
 - (a) where the sample is requested for the purpose of ascertaining whether, or to what extent, a person has, or has had, alcohol in his body, a sample of urine or breath,
 - (b) where the sample is requested for the purpose of ascertaining whether, or to what extent, a person has, or has had, drugs in his body, a sample of urine, and
 - (c) in either case, any other sample specified by the Secretary of State in an order made for the purposes of this paragraph.
- (4) The power conferred by subsection (2)(b) includes power to specify a description of drug by reference to the effects or likely effects of taking drugs within that description.
- (5) The power conferred by subsection (3)(c) does not include power to specify a sample of blood, semen or other tissue fluid or anything which would have to be provided from a person’s body orifice (other than the mouth).

Status: This is the original version (as it was originally enacted).

- (6) In the case of a sample falling within subsection (3)(c), any reference to a person being requested to provide a sample includes a reference to a person being requested to consent to the taking from him of a sample.
- (7) In section 32, any reference to a person subject to service law is a reference to—
- (a) a person subject to military law, air-force law or the 1957 Act, or
 - (b) subject to subsection (8), a person to whom any provisions of Part 2 of the Army Act 1955 (c. 18), Part 2 of the Air Force Act 1955 (c. 19) or Parts 1 and 2 of the 1957 Act apply by virtue of—
 - (i) section 209(1) or (2) of either of the 1955 Acts (application of Act to civilians), or
 - (ii) section 118(1) or (2) of the 1957 Act (application of Act to civilians).
- (8) A person is not to be regarded for the purposes of section 32 as a person subject to service law if provisions of either of the 1955 Acts or the 1957 Act apply to him only by virtue of his falling within any description specified in paragraphs 5 to 9 of Schedule 5 to the 1955 Acts or (as the case may be) paragraphs 5 to 9 of Schedule 3 to the 1957 Act.
- (9) For the purposes of section 32, the commanding officer of a person subject to service law is—
- (a) in relation to a person subject to military law, the officer who would be that person's commanding officer for the purposes of section 82 of the Army Act 1955 if he were charged with an offence;
 - (b) in relation to a person subject to air-force law, the officer who would be that person's commanding officer for the purposes of section 82 of the Air Force Act 1955 if he were charged with an offence;
 - (c) in relation to a person subject to the 1957 Act or a person to whom provisions of that Act apply by virtue of section 118(1) or (2) of that Act, the officer in command of the ship or naval establishment to which he belongs or any other person who, by virtue of regulations made under section 52E of that Act, would be able to exercise the powers conferred by that Act in relation to that person if he were charged with an offence;
 - (d) in relation to a person to whom provisions of Part 2 of either of the 1955 Acts apply by virtue of subsection (1) or (2) of section 209 of the Act in question, the person who is by virtue of regulations of the Defence Council made for the purposes of section 209(3)(f) of that Act the commanding officer for the purposes of Part 2 of that Act in relation to him.