



Police and Criminal Evidence Act 1984

1984 CHAPTER 60

PART V

QUESTIONING AND TREATMENT OF PERSONS BY POLICE

[^{F1}63B Testing for presence of Class A drugs.

- (1) A sample of urine or a non-intimate sample may be taken from a person in police detention for the purpose of ascertaining whether he has any specified Class A drug in his body if
- [^{F2}(a) either the arrest condition or the charge condition is met;
 - (b) both the age condition and the request condition are met; and
 - (c) the notification condition is met in relation to the arrest condition, the charge condition or the age condition (as the case may be).]

[The arrest condition is that the person concerned has been arrested for an offence but ^{F3}(1A) has not been charged with that offence and either—

- (a) the offence is a trigger offence; or
 - (b) a police officer of at least the rank of inspector has reasonable grounds for suspecting that the misuse by that person of a specified Class A drug caused or contributed to the offence and has authorised the sample to be taken.]
- (2) [^{F4}The charge condition is either]—
- (a) that the person concerned has been charged with a trigger offence; or
 - (b) that the person concerned has been charged with an offence and a police officer of at least the rank of inspector, who has reasonable grounds for suspecting that the misuse by that person of any specified Class A drug caused or contributed to the offence, has authorised the sample to be taken.

[^{F5}(3) The age condition is—

- (a) if the arrest condition is met, that the person concerned has attained the age of 18;
- (b) if the charge condition is met, that he has attained the age of 14.]

Status: Point in time view as at 03/04/2017.

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- (4) The [^{F6}request] condition is that a police officer has requested the person concerned to give the sample.
- [The notification condition is that—
- ^{F7}(4A) (a) the relevant chief officer has been notified by the Secretary of State that appropriate arrangements have been made for the police area as a whole, or for the particular police station, in which the person is in police detention, and
- (b) the notice has not been withdrawn.
- (4B) For the purposes of subsection (4A) above, appropriate arrangements are arrangements for the taking of samples under this section from whichever of the following is specified in the notification—
- (a) persons in respect of whom the arrest condition is met;
- (b) persons in respect of whom the charge condition is met;
- (c) persons who have not attained the age of 18.]
- (5) Before requesting the person concerned to give a sample, an officer must—
- (a) warn him that if, when so requested, he fails without good cause to do so he may be liable to prosecution, and
- (b) in a case within subsection [^{F8}(1A)(b) or] (2)(b) above, inform him of the giving of the authorisation and of the grounds in question.
- [In the case of a person who [^{F10}has not attained the age of 18]—
- ^{F9}(5A) (a) the making of the request under subsection (4) above;
- (b) the giving of the warning and (where applicable) the information under subsection (5) above; and
- (c) the taking of the sample,
- may not take place except in the presence of an appropriate adult.]
- [If a sample is taken under this section from a person in respect of whom the arrest
- ^{F11}(5B) condition is met no other sample may be taken from him under this section during the same continuous period of detention but—
- (a) if the charge condition is also met in respect of him at any time during that period, the sample must be treated as a sample taken by virtue of the fact that the charge condition is met;
- (b) the fact that the sample is to be so treated must be recorded in the person's custody record.
- (5C) Despite subsection (1)(a) above, a sample may be taken from a person under this section if—
- (a) he was arrested for an offence (the first offence),
- (b) the arrest condition is met but the charge condition is not met,
- (c) before a sample is taken by virtue of subsection (1) above he would (but for his arrest as mentioned in paragraph (d) below) be required to be released from police detention,
- (d) he continues to be in police detention by virtue of his having been arrested for an offence not falling within subsection (1A) above, and
- (e) the sample is taken before the end of the period of 24 hours starting with the time when his detention by virtue of his arrest for the first offence began.

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(5D) A sample must not be taken from a person under this section if he is detained in a police station unless he has been brought before the custody officer.]

(6) A sample may be taken under this section only by a person prescribed by regulations made by the Secretary of State by statutory instrument.

No regulations shall be made under this subsection unless a draft has been laid before, and approved by resolution of, each House of Parliament.

[The Secretary of State may by order made by statutory instrument amend—

- ^{F12}[^{F13}(6A) (a) paragraph (a) of subsection (3) above, by substituting for the age for the time being specified a different age specified in the order, or different ages so specified for different police areas so specified;
- (b) paragraph (b) of that subsection, by substituting for the age for the time being specified a different age specified in the order.]

(6B) A statutory instrument containing an order under subsection (6A) above shall not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.]

(7) Information obtained from a sample taken under this section may be disclosed—

(a) for the purpose of informing any decision about granting bail in criminal proceedings (within the meaning of the ^{M1}Bail Act 1976) to the person concerned;

^{F14}[(aa) for the purpose of informing any decision about the giving of a conditional caution under Part 3 of the Criminal Justice Act 2003 [^{F15}or a youth conditional caution under Chapter 1 of Part 4 of the Crime and Disorder Act 1998] to the person concerned;]

(b) where the person concerned is in police detention or is remanded in or committed to custody by an order of a court or has been granted such bail, for the purpose of informing any decision about his supervision;

(c) where the person concerned is convicted of an offence, for the purpose of informing any decision about the appropriate sentence to be passed by a court and any decision about his supervision or release;

^{F16}[(ca) for the purpose of an assessment which the person concerned is required to attend by virtue of section 9(2) or 10(2) of the Drugs Act 2005;

(cb) for the purpose of proceedings against the person concerned for an offence under section 12(3) or 14(3) of that Act;]

(d) for the purpose of ensuring that appropriate advice and treatment is made available to the person concerned.

(8) A person who fails without good cause to give any sample which may be taken from him under this section shall be guilty of an offence.

^{F17}[^{F18}.....
(9)

(10) In this section—

“appropriate adult”, in relation to a person who^{F19} has not attained the age of 18], means—

(a) his parent or guardian or, if he is in the care of a local authority or voluntary organisation, a person representing that authority or organisation; or

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- (b) ^{F20}a social worker of a local authority . . . ; or
- (c) if no person falling within paragraph (a) or (b) is available, any responsible person aged 18 or over who is not a police officer or ^{F21}a person employed for, or engaged on, police purposes; and “police purposes” has the meaning given by section 101(2) of the Police Act 1996];
- “relevant chief officer” means—
- (a) in relation to a police area, the chief officer of police of the police force for that police area; or
- (b) in relation to a police station, the chief officer of police of the police force for the police area in which the police station is situated.]]

Textual Amendments

- F1** S. 63B inserted (for certain purposes on 20.6.2001, 2.7.2001, 20.5.2002, 2.9.2002, 1.4.2003, 1.4.2004 and otherwise prosp.) by 2000 c. 43, ss. 57(2), 80(1); S.I. 2001/2232, art. 2(f); S.I. 2002/1149, **art. 2**; S.I. 2002/1862, **art. 2**; S.I. 2003/709, **art. 2**; S.I. 2004/780, **art. 2**
- F2** S. 63B(1)(a)-(c) substituted (1.12.2005) for words in s. 63B(1) by Drugs Act 2005 (c. 17), **ss. 7(2), 24** (with s. 7(13)(14)); S.I. 2005/3053, **art. 2(1)(a)**
- F3** S. 63B(1A) inserted (1.12.2005) by Drugs Act 2005 (c. 17), **ss. 7(3), 24** (with s. 7(13)(14)); S.I. 2005/3053, **art. 2(1)(a)**
- F4** Words in s. 63B(2) substituted (1.12.2005) by Drugs Act 2005 (c. 17), **ss. 7(4), 24** (with s. 7(13)(14)); S.I. 2005/3053, **art. 2(1)(a)**
- F5** S. 63B(3) substituted (1.12.2005) by Drugs Act 2005 (c. 17), **ss. 7(5), 24** (with s. 7(13)(14)); S.I. 2005/3053, **art. 2(1)(a)**
- F6** Word in s. 63B(4) substituted (1.12.2005) by Drugs Act 2005 (c. 17), **ss. 7(6), 24** (with s. 7(13)(14)); S.I. 2005/3053, **art. 2(1)(a)**
- F7** S. 63B(4A)(4B) inserted (1.12.2005) by Drugs Act 2005 (c. 17), **ss. 7(7), 24**; (with s. 7(13)(14)); S.I. 2005/3053, **art. 2(1)(a)**
- F8** Words in s. 63B(5)(b) inserted (1.12.2005) by Drugs Act 2005 (c. 17), **ss. 7(8), 24** (with s. 7(13)(14)); S.I. 2005/3053, **art. 2(1)(a)**
- F9** S. 63B(5A) inserted (1.8.2004 for certain purposes and otherwise 1.12.2005) by Criminal Justice Act 2003 (c. 44), **ss. 5(3)(b), 336**; S.I. 2004/1867, **art. 2**; S.I. 2005/3055, **art. 2**
- F10** Words in s. 63B(5A) substituted (31.1.2017 for specified purposes, 3.4.2017 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), **ss. 73(3)(a), 183(1)(5)(e)**; S.I. 2017/399, reg. 2, Sch. para. 22
- F11** S. 63B(5B)-(5D) inserted (1.12.2005) by Drugs Act 2005 (c. 17), **ss. 7(9), 24** (with s. 7(13)(14)); S.I. 2005/3053, **art. 2(1)(a)**
- F12** S. 63B(6A)(6B) inserted (1.8.2004 for certain purposes and otherwise 1.12.2005) by Criminal Justice Act 2003 (c. 44), **ss. 5(3)(c), 336**; S.I. 2004/1867, **art. 2**; S.I. 2005/3055, **art. 2**
- F13** S. 63B(6A) substituted (1.12.2005) by Drugs Act 2005 (c. 17), **ss. 7(10), 24** (with s. 7(13)(14)); S.I. 2005/3053, **art. 2(1)(a)**
- F14** S. 63B(7)(aa) inserted (1.12.2005) by Drugs Act 2005 (c. 17), **ss. 7(11), 24** (with s. 7(13)(14)); S.I. 2005/3053, **art. 2(1)(a)**
- F15** Words in s. 63B(7)(aa) substituted (16.11.2009 in relation to the areas specified in art. 2(2) of the commencing S.I.) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 148, 153, **Sch. 26 para. 20(2)**; S.I. 2009/2780, **art. 2**
- F16** S. 63B(7)(ca)(cb) inserted (1.12.2005) by Drugs Act 2005 (c. 17), ss. 23, 24, **Sch. 1 para. 4**; S.I. 2005/3053, **art. 2(1)(f)**
- F17** S. 63B(9)(10) inserted (1.8.2004 for certain purposes and otherwise 1.12.2005) by Criminal Justice Act 2003 (c. 44), **ss. 5(3)(d), 336**; S.I. 2004/1867, **art. 2**; S.I. 2005/3055, **art. 2**

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- F18** S. 63B(9) repealed (1.12.2005) by [Drugs Act 2005 \(c. 17\)](#), [ss. 7\(9\)](#), 23, 24 (with s. 7(13)(14)); S.I. 2005/3053, [art. 2\(1\)\(a\)\(f\)](#)
- F19** Words in s. 63B(10) substituted (31.1.2017 for specified purposes, 3.4.2017 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\)](#), [ss. 73\(3\)\(b\)](#), 183(1)(5)(e); S.I. 2017/399, [reg. 2](#), [Sch. para. 22](#)
- F20** S. 63B(10): words in definition of "appropriate adult" repealed (1.4.2005 for E. and 1.4.2006 for W.) by [Children Act 2004 \(c. 31\)](#), [ss. 64](#), 67, [Sch. 5 Pt. 4](#); S.I. 2005/394, [art. 2\(2\)\(g\)](#); S.I. 2006/885, [art. 2\(2\)\(h\)](#)
- F21** Words in s. 63B(10)(c) substituted (31.1.2017 for specified purposes, 3.4.2017 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\)](#), [ss. 79\(1\)](#), 183(1)(5)(e); S.I. 2017/399, [reg. 2](#), [Sch. para. 27](#)

Modifications etc. (not altering text)

- C1** S. 63B(2): power to amend conferred (for certain purposes on 20.6.2001, 2.7.2001, 20.5.2002, 2.9.2002, 1.4.2003, 1.4.2004, 1.4.2005 and 1.12.2005) by [2000 c. 43](#), [ss. 57\(4\)](#), 80(1); S.I. 2001/2232, [art. 2\(f\)](#); S.I. 2002/1149, [art. 2](#); S.I. 2002/1862, [art. 2](#); S.I. 2003/709, [art. 2](#); S.I. 2004/780, [art. 2](#); S.I. 2005/596, [art. 2](#); S.I. 2005/3054, [art. 2](#)

Marginal Citations

- M1** [1976 c. 63](#).

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