



# Serious Organised Crime and Police Act 2005

## 2005 CHAPTER 15

### PART 5

#### MISCELLANEOUS

##### *Vehicle registration and insurance and road traffic offences*

#### **154 Power to require specimens of breath at roadside or at hospital etc.**

- (1) Section 6D of the Road Traffic Act 1988 (preliminary tests for drink and drugs: arrest) is amended as follows.
- (2) After subsection (1) insert—

“(1A) The fact that specimens of breath have been provided under section 7 of this Act by the person concerned does not prevent subsection (1) above having effect if the constable who imposed on him the requirement to provide the specimens has reasonable cause to believe that the device used to analyse the specimens has not produced a reliable indication of the proportion of alcohol in the breath of the person.”
- (3) After subsection (2) insert—

“(2A) A person arrested under this section may, instead of being taken to a police station, be detained at or near the place where the preliminary test was, or would have been, administered, with a view to imposing on him there a requirement under section 7 of this Act.”
- (4) Section 7 of that Act (provision of specimens for analysis) is amended as follows.
- (5) For subsection (2) substitute—

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*Status: Point in time view as at 08/05/2006. This version of this provision has been superseded.*

*Changes to legislation: Serious Organised Crime and Police Act 2005, Section 154 is up to date with all changes known to be in force on or before 14 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

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- “(2) A requirement under this section to provide specimens of breath can only be made—
- (a) at a police station,
  - (b) at a hospital, or
  - (c) at or near a place where a relevant breath test has been administered to the person concerned or would have been so administered but for his failure to co-operate with it.
- (2A) For the purposes of this section “a relevant breath test” is a procedure involving the provision by the person concerned of a specimen of breath to be used for the purpose of obtaining an indication whether the proportion of alcohol in his breath or blood is likely to exceed the prescribed limit.
- (2B) A requirement under this section to provide specimens of breath may not be made at or near a place mentioned in subsection (2)(c) above unless the constable making it—
- (a) is in uniform, or
  - (b) has imposed a requirement on the person concerned to co-operate with a relevant breath test in circumstances in which section 6(5) of this Act applies.
- (2C) Where a constable has imposed a requirement on the person concerned to co-operate with a relevant breath test at any place, he is entitled to remain at or near that place in order to impose on him there a requirement under this section.
- (2D) If a requirement under subsection (1)(a) above has been made at a place other than at a police station, such a requirement may subsequently be made at a police station if (but only if)—
- (a) a device or a reliable device of the type mentioned in subsection (1)(a) above was not available at that place or it was for any other reason not practicable to use such a device there, or
  - (b) the constable who made the previous requirement has reasonable cause to believe that the device used there has not produced a reliable indication of the proportion of alcohol in the breath of the person concerned.”
- (6) In subsection (3) (circumstances in which requirement to provide a specimen of blood or urine may be made)—
- (a) in paragraph (b) (breath-testing device not available etc.) insert at the beginning “specimens of breath have not been provided elsewhere and”, and
  - (b) in paragraph (bb) (police station breath-testing device has not provided a reliable indication of alcohol level) for “at the police station” substitute “(at the police station or elsewhere)”.
- (7) In section 8 of that Act (choice of specimens of breath) after subsection (2) insert—
- “(2A) If the person who makes a claim under subsection (2) above was required to provide specimens of breath under section 7 of this Act at or near a place mentioned in subsection (2)(c) of that section, a constable may arrest him without warrant.”

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- (8) In section 9(1) of that Act (protection for hospital patients) for “for a laboratory test” substitute “ under section 7 of this Act ”.
- (9) Section 10 of that Act (detention of persons affected by alcohol or a drug) is amended as follows.
- (10) In subsection (1) (detention at a police station)—
- (a) for “until it appears to the constable” substitute “ (or, if the specimen was provided otherwise than at a police station, arrested and taken to and detained at a police station) if a constable has reasonable grounds for believing ”, and
  - (b) for “not be committing” substitute “ commit ”.
- (11) In subsection (2) (grounds for detention) for “A person shall not be detained in pursuance of this section if it appears to a” substitute “ Subsection (1) above does not apply to the person if it ought reasonably to appear to the ”.
- (12) After that subsection insert—
- “(2A) A person who is at a hospital as a patient shall not be arrested and taken from there to a police station in pursuance of this section if it would be prejudicial to his proper care and treatment as a patient.”

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**Commencement Information**

**II** [S. 154](#) in force at 1.7.2005 by [S.I. 2005/1521](#), [art. 3\(1\)\(u\)](#)

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