



# Armed Forces Act 2006

## 2006 CHAPTER 52

### PART 13

#### DISCIPLINE: MISCELLANEOUS AND SUPPLEMENTARY

### CHAPTER 1

#### TESTING FOR ALCOHOL AND DRUGS

#### **305 Testing for drugs**

- (1) A drug testing officer may, in order for it to be ascertained whether or to what extent a person subject to service law has or has had drugs in his body, require the person to provide a sample of his urine for analysis.
- (2) A drug testing officer may not impose a requirement under subsection (1) if—
  - (a) he or his commanding officer is the person's commanding officer; or
  - (b) the sample is sought in connection with an investigation under this Act of an offence or an investigation of an incident within section 306(1)(a).
- (3) A person commits an offence if he fails to comply with a requirement imposed under subsection (1).
- (4) In this section—

“drug” means a controlled drug as defined by section 2 of the Misuse of Drugs Act 1971 (c. 38); and

“drug testing officer” means an officer, warrant officer or non-commissioned officer who is authorised by or in accordance with regulations made by the Defence Council for the purpose of obtaining samples for analysis for drugs.
- (5) A person guilty of an offence under this section is liable to any punishment mentioned in the Table in section 164, but any sentence of imprisonment or service detention imposed in respect of the offence must not exceed 51 weeks.

*Status: Point in time view as at 28/03/2009.*

*Changes to legislation: Armed Forces Act 2006, Chapter 1 is up to date with all changes known to be in force on or before 29 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)*

**Commencement Information**

- II** S. 305 in force at 28.3.2009 for specified purposes by [S.I. 2009/812](#), **art. 3(a)(b)** (with transitional provisions in [S.I. 2009/1059](#))

**306 Testing for alcohol and drugs after serious incident**

- (1) This section applies where—
- (a) an incident has occurred which in the opinion of an officer resulted in, or created a risk of, death or serious injury to any person or serious damage to any property; and
  - (b) in the opinion of the officer, it is possible that a person within subsection (3) (“A”) may have caused or in any way contributed to—
    - (i) the occurrence of the incident;
    - (ii) any death or serious injury to any person, or serious damage to any property, resulting from it; or
    - (iii) the risk of any such death, injury or damage.
- (2) The officer may, in order for it to be ascertained whether or to what extent A has or has had alcohol or drugs in his body, require A to provide a sample for analysis.
- (3) A person is within this subsection if—
- (a) he is a person subject to service law or a civilian subject to service discipline; and
  - (b) the officer mentioned in subsection (1) is his commanding officer.
- (4) A person commits an offence if without reasonable excuse he fails to comply with a requirement imposed under subsection (2).
- (5) A person guilty of an offence under this section is liable to any punishment mentioned in the Table in section 164, but any sentence of imprisonment or service detention imposed in respect of the offence must not exceed 51 weeks.
- (6) The Defence Council may by regulations provide for the delegation by an officer of—
- (a) functions conferred by this section;
  - (b) functions conferred by regulations under section 308 so far as relating to the obtaining of samples under subsection (2) of this section.

**Commencement Information**

- II** [S. 306](#) in force at 28.3.2009 for specified purposes by [S.I. 2009/812](#), **art. 3(a)(b)** (with transitional provisions in [S.I. 2009/1059](#))

**307 Definitions etc for purposes of section 306**

- (1) This section applies for the purposes of section 306.
- (2) “Drug” means—
- (a) a controlled drug as defined by section 2 of the Misuse of Drugs Act 1971 (c. 38); or

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- (b) any other drug specified, or of a description specified, in an order made by the Secretary of State for the purposes of this paragraph.
- (3) “Sample” means—
- (a) where the sample is required in order for it to be ascertained 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 required in order for it to be ascertained 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 (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).
- (5) Any reference to a person being required to provide a sample includes, in relation to a sample within subsection (3)(c), a reference to a person being required to consent to the taking from him of a sample.

#### Commencement Information

- I3** S. 307 in force at 28.3.2009 for specified purposes by S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059)

### 308 Sections 305 and 306: supplementary

- (1) The Defence Council may by regulations make provision about the obtaining of samples under sections 305(1) and 306(2) and the analysis of such samples, including in particular provision—
- (a) as to the number of samples which a person may be required to provide;
  - (b) as to the circumstances in which a person may be required under section 306(2) to provide more than one type of sample;
  - (c) enabling the person imposing a requirement under section 305(1) or 306(2) to specify the way in which the sample is to be provided;
  - (d) prescribing circumstances in which a requirement under section 305(1) or 306(2) may not be imposed;
  - (e) as to the equipment to be used, and the procedures to be followed, in obtaining or analysing samples;
  - (f) as to the qualifications and training of any persons engaged in obtaining or analysing samples.
- (2) In subsection (1), any reference to a person being required to provide a sample includes, in relation to a sample within section 307(3)(c), a reference to a person being required to consent to the taking from him of a sample.
- (3) The results of any analysis of a sample provided pursuant to a requirement imposed under section 305(1) or section 306(2) are not admissible in evidence against any person in proceedings in respect of a service offence.
- (4) Nothing in this Chapter limits the powers conferred by—
- (a) any provision of the Road Traffic Act 1988 (c. 52), or

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- (b) any provision of an order under section 113(1) of PACE which makes provision equivalent to any provision of Part 5 of PACE (questioning and treatment of persons by police),  
or affects the admissibility in any proceedings of evidence obtained under those powers.

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**Commencement Information**

- 14** S. 308 in force at 28.3.2009 for specified purposes by [S.I. 2009/812](#), **art. 3(a)(b)** (with transitional provisions in [S.I. 2009/1059](#))

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