



Armed Forces Act 2006

2006 CHAPTER 52

PART 3

POWERS OF ARREST, SEARCH AND ENTRY

[^{F1}CHAPTER 3A

TESTING FOR ALCOHOL AND DRUGS ON SUSPICION OF OFFENCE

[^{F1}Preliminary testing for alcohol and drugs

Textual Amendments

- F1** Pt. 3 Ch. 3A inserted (8.3.2012 for specified purposes, 1.11.2013 in so far as not already in force) by [Armed Forces Act 2011 \(c. 18\)](#), ss. **11(1)**, 32(3); [S.I. 2012/669](#), art. 3(c); [S.I. 2013/2501](#), art. 3(b)

93A Commanding officer's power to require preliminary tests

- (1) This section applies where the commanding officer of a person subject to service law has reasonable cause to believe that that person—
- is committing a relevant offence; or
 - has committed a relevant offence and still has alcohol or a drug in the body or is still under the influence of a drug.
- (2) In this section “relevant offence” means—
- an offence under section 20A; or
 - an offence under section 20(1)(a) in respect of a safety-critical duty (as defined by section 93I).
- (3) This section also applies where the commanding officer of a person who is a civilian subject to service discipline has reasonable cause to believe that that person—

Status: Point in time view as at 13/05/2014.

Changes to legislation: Armed Forces Act 2006, Cross Heading: Preliminary testing for alcohol and drugs is up to date with all changes known to be in force on or before 13 June 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)

- (a) is committing an offence under section 42 as respects which the corresponding offence under the law of England and Wales is an offence under section 78, 79, 92 or 93 of the Railways and Transport Safety Act 2003 (maritime and aviation offences); or
 - (b) has committed such an offence under section 42 and still has alcohol or a drug in the body or is still under the influence of a drug.
- (4) The commanding officer may require the person mentioned in subsection (1) or (3) (“the suspected person”) to co-operate with any one or more of—
- (a) a preliminary breath test (see section 93B);
 - (b) a preliminary impairment test (see section 93C);
 - (c) a preliminary drug test (see section 93D).
- (5) The Defence Council may by regulations provide for the delegation by a commanding officer of the commanding officer's functions under this section.
- (6) A person who, without reasonable excuse, fails to comply with a requirement imposed under subsection (4) commits an offence.
- (7) 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 imposed in respect of the offence must not exceed two years.
- (8) For the purposes of this section, a person does not co-operate with a preliminary test unless the person's co-operation—
- (a) is sufficient to enable the test to be carried out; and
 - (b) is provided in such a way as to enable the objective of the test to be satisfactorily achieved.

93B Preliminary breath test

- (1) A preliminary breath test is a procedure administered by a service policeman under which—
- (a) the suspected person provides a specimen of breath; and
 - (b) the specimen is used for the purpose of obtaining, by means of an approved device, an indication whether the proportion of alcohol in the person's breath or blood is likely to be such as is necessary for the commission of the suspected offence.
- (2) A preliminary breath test may be administered only—
- (a) at or near the place where the requirement to co-operate with the test is imposed;
 - (b) at a service police establishment determined by the service policeman; or
 - (c) at a medical establishment.
- (3) In this section “the suspected offence” means an offence mentioned in section 93A(2) or (3)(a) which the commanding officer has reasonable cause to believe has been committed.

93C Preliminary impairment test

- (1) A preliminary impairment test is a procedure under which a service policeman—

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- (a) observes the suspected person performing tasks specified by the service policeman; and
 - (b) makes such other observations of the suspected person's physical state as the service policeman thinks expedient.
- (2) A preliminary impairment test may be administered only—
 - (a) at or near the place where the requirement to co-operate with the test is imposed;
 - (b) at a service police establishment determined by the service policeman; or
 - (c) at a medical establishment.
- (3) The Provost Marshals (acting jointly) must issue, and may from time to time revise, a code of practice about—
 - (a) the kind of task that may be specified for the purposes of a preliminary impairment test;
 - (b) the kind of observation of physical state that may be made in the course of a preliminary impairment test;
 - (c) the way in which a preliminary impairment test should be administered; and
 - (d) the inferences that may be drawn by a service policeman from observations made in the course of a preliminary impairment test.
- (4) In subsection (3) “the Provost Marshals” means the Provost Marshals of each of the service police forces.
- (5) A service policeman administering a preliminary impairment test must have regard to the code of practice.
- (6) A service policeman may administer a preliminary impairment test only if the service policeman is approved for that purpose by a Provost Marshal of a service police force.
- (7) A code of practice under this section may include provision about—
 - (a) the giving of approval under subsection (6); and
 - (b) in particular, the kind of training that a service policeman should have undergone, or the kind of qualification that a service policeman should possess, before being approved under that subsection.

93D Preliminary drug test

- (1) A preliminary drug test is a procedure administered by a service policeman under which—
 - (a) a specimen of sweat or saliva is obtained from the suspected person; and
 - (b) the specimen is used for the purpose of obtaining, by means of an approved device, an indication whether there is a drug in the person's body.
- (2) A preliminary drug test may be administered only—
 - (a) at or near the place where the requirement to co-operate with the test is imposed;
 - (b) at a service police establishment determined by the service policeman; or
 - (c) at a medical establishment.]

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