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STATUTORY INSTRUMENTS

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**2009 No. 1922**

**The Police and Criminal Evidence Act 1984  
(Armed Forces) Order 2009**

**Intimate samples**

**12.—(1)** An intimate sample may be taken from a person in custody at a service police establishment only—

- (a) if an authorising service policeman authorises it to be taken; and
- (b) if the appropriate consent is given.

(2) An intimate sample may be taken from a person who is not in custody at a service police establishment but from whom, in the course of the investigation of an offence, two or more non-intimate samples suitable for the same means of analysis have been taken which have proved insufficient—

- (a) if an authorising service policeman authorises it to be taken; and
- (b) if the appropriate consent is given.

(3) An authorising service policeman may only give an authorisation under paragraph (1) or (2) if he has reasonable grounds—

- (a) for suspecting the involvement of the person from whom the sample is to be taken in an applicable service offence; and
- (b) for believing that the sample will tend to confirm or disprove his involvement.

(4) An authorising service policeman may give an authorisation under paragraph (1) or (2) orally or in writing but, if he gives it orally, he shall confirm it in writing as soon as is practicable.

(5) The appropriate consent must be given in writing.

(6) Where—

- (a) an authorisation has been given; and
- (b) it is proposed that an intimate sample shall be taken in pursuance of the authorisation,

a service policeman shall inform the person from whom the sample is to be taken of the giving of the authorisation and of the grounds for giving it.

(7) The duty imposed by paragraph (6) to inform a person of the grounds for giving the authorisation includes a duty to state the nature of the offence in which it is suspected that the person from whom the sample is to be taken has been involved.

(8) If an intimate sample is taken from a person—

- (a) the authorisation by virtue of which it was taken,
- (b) the grounds for giving the authorisation, and
- (c) the fact that the appropriate consent was given,

shall be recorded in writing by a service policeman as soon as is practicable after the sample is taken.

(9) If an intimate sample is taken from a person at a service police establishment—

- (a) before the sample is taken, a service policeman shall inform him that it may be the subject of a speculative search; and
  - (b) the fact that the person has been informed of this possibility shall be recorded in writing by a service policeman as soon as practicable after the sample has been taken.
- (10) In the case of an intimate sample which is a dental impression, the sample may be taken from a person only by a registered dentist.
- (11) In the case of any other form of intimate sample, except in the case of a sample of urine, the sample may be taken from a person only by—
- (a) a registered medical practitioner;
  - (b) a member of a service medical authority; or
  - (c) a registered health care professional.
- (12) Where the appropriate consent to the taking of an intimate sample from a person was refused without good cause, in any proceedings against that person for an offence—
- (a) the court in determining whether there is a case to answer, and
  - (b) the court in determining whether that person is guilty of the offence charged,
- may draw such inferences from the refusal as appear proper, and “court” shall have the same meaning as applied by this Order in relation to article 6(18).
- (13) Nothing in this article applies to the taking of a specimen for the purposes of any of the provisions of sections 5 to 10 of the Road Traffic Act 1988(1), as applied to persons subject to service law and civilians subject to service discipline by section 184 of that Act, to the provision of a sample for drug testing or to the provision of a sample under section 306 of the Act.

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(1) 1988 c. 52; section 184 is amended by paragraph 117 of Schedule 16 to the Act.