



2016 CHAPTER 11

PART 2

Drink-driving

*Evidential specimens*

**Evidential breath test without preliminary breath test or check-point breath test**

5.—(1) The Order of 1995 is amended as follows.

(2) In Article 17D (power of arrest)—

(a) after paragraph (1A) insert—

“(1B) A constable may arrest a person without warrant if—

(a) the constable—

(i) in accordance with paragraph (2)(c) of Article 18, has required him to provide specimens of breath under that Article, and

(ii) has not required him to co-operate with a preliminary breath test or a check-point breath test, and

(b) as a result of the provision by the person of such specimens, the constable reasonably suspects that the proportion of alcohol in his breath or blood exceeds the prescribed limit.”,

(b) in paragraph (2), for “and” after sub-paragraph (a) substitute “or

(aa) the person fails to provide a specimen of breath in pursuance of a requirement under Article 18 made in accordance with paragraph (2)(c) of that Article, and”,

- (c) in paragraph (2A)—
  - (i) the words from “may,” to the end become sub-paragraph (a),
  - (ii) after that sub-paragraph insert—
    - “(b) may, instead of being taken to a police station, in the circumstances mentioned in paragraph (1B)(a), be detained at or near the place where the requirement to provide specimens of breath was, or would have been, made.”.
- (3) In Article 18 (provisions of specimens for analysis)—
  - (a) for paragraph (2), substitute—
    - “(2) A requirement under this Article to provide specimens of breath may be made only—
      - (a) at a police station or hospital,
      - (b) in circumstances in which—
        - (i) Article 17(5) applies, and
        - (ii) the constable has imposed a requirement on the person concerned to co-operate with a preliminary breath test, at or near the place where the preliminary breath test was so administered or would have been so administered but for the failure to co-operate with it, or
      - (c) in circumstances in which Article 17(5) does not apply, at a place other than a police station or hospital if—
        - (i) the constable reasonably suspects that the proportion of alcohol in the person’s breath or blood exceeds the prescribed limit, and
        - (ii) a device mentioned in paragraph (1)(a) is available to be used for the taking of the specimens.”.
  - (b) paragraphs (2A) and (2B) are omitted,
  - (c) in paragraph (2C), for “relevant breath test” substitute “preliminary breath test or check-point breath test”,
  - (d) in paragraph (3), after “is” insert “in uniform and”.

### **Choice of specimens**

**6.** Article 19 of the Order of 1995 (choice of specimens of breath) is amended as follows—

- (a) for the title, substitute “Lower of 2 specimens of breath to be used”,
- (b) in paragraph (1), the words “Subject to paragraph (2),” are omitted,
- (c) paragraphs (2), (2A) and (3) are omitted.