



Criminal Procedure (Scotland) Act 1995

1995 CHAPTER 46

PART II

POLICE FUNCTIONS

[^{F1}Testing for Class A drugs

[^{F1}20A Arrested persons: testing for certain Class A drugs

- (1) Subject to subsection (2) below, where subsection (3) below applies an appropriate officer may—
- (a) require a person who has been arrested and is in custody in a police station to provide him with a sample of urine; or
 - (b) take from the inside of the mouth of such a person, by means of swabbing, a sample of saliva or other material,
- which the officer may subject to analysis intended to reveal whether there is any relevant Class A drug in the person's body.
- (2) The power conferred by subsection (1) above shall not be exercised where the person has previously been required to provide or had taken from him a sample under that subsection in the same period in custody.
- (3) This subsection applies where—
- (a) the person is of 16 years of age or more;
 - (b) the period in custody in the police station has not exceeded 6 hours;
 - (c) the police station is situated in an area prescribed by order made by statutory instrument by the Scottish Ministers; and
 - (d) either—
 - (i) the person's arrest was on suspicion of committing or having committed a relevant offence; or
 - (ii) a senior police officer who has appropriate grounds has authorised the making of the requirement to provide or the taking of the sample.

Status: Point in time view as at 16/08/2013.

Changes to legislation: Criminal Procedure (Scotland) Act 1995, Section 20A is up to date with all changes known to be in force on or before 08 April 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)

- (4) Before exercising the power conferred by subsection (1) above, an appropriate officer shall—
- (a) warn the person in respect of whom it is to be exercised that failure, without reasonable excuse, to comply with the requirement or, as the case may be, allow the sample to be taken constitutes an offence; and
 - (b) in a case within subsection (3)(d)(ii) above, inform the person of the giving of the authorisation and the grounds for the suspicion.
- (5) Where—
- (a) a person has been required to provide or has had taken a sample under subsection (1) above;
 - (b) any of the following is the case—
 - (i) the sample was not suitable for the means of analysis to be used to reveal whether there was any relevant Class A drug in the person's body;
 - (ii) though suitable, the sample was insufficient (either in quantity or quality) to enable information to be obtained by that means of analysis; or
 - (iii) the sample was destroyed during analysis and the means of analysis failed to produce reliable information; and
 - (c) the person remains in custody in the police station (whether or not the period of custody has exceeded 6 hours),
- an appropriate officer may require the person to provide or as the case may be take another sample of the same kind by the same method.
- (6) Before exercising the power conferred by subsection (5) above, an appropriate officer shall warn the person in respect of whom it is to be exercised that failure, without reasonable excuse, to comply with the requirement or, as the case may be, allow the sample to be taken constitutes an offence.
- (7) A person who fails without reasonable excuse—
- (a) to comply with a requirement made of him under subsection (1)(a) or (5) above; or
 - (b) to allow a sample to be taken from him under subsection (1)(b) or (5) above, shall be guilty of an offence.
- (8) In this section—
- “appropriate grounds” means reasonable grounds for suspecting that the misuse by the person of any relevant Class A drug caused or contributed to the offence on suspicion of which the person was arrested;
- “appropriate officer” means—
- (a) a constable; or
 - (b) a police custody and security officer acting on the direction of a constable;
- “misuse” has the same meaning as in the Misuse of Drugs Act 1971 (c. 38);
- “relevant Class A drug” means any of the following substances, preparations and products—
- (a) cocaine or its salts;
 - (b) any preparation or other product containing cocaine or its salts;
 - (c) diamorphine or its salts;

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- (d) any preparation or other product containing diamorphine or its salts;
“relevant offence” means any of the following offences—
- (a) theft;
 - (b) assault;
 - (c) robbery;
 - (d) fraud;
 - (e) reset;
 - (f) uttering a forged document;
 - (g) embezzlement;
 - (h) an attempt, conspiracy or incitement to commit an offence mentioned in paragraphs (a) to (g);
 - (i) an offence under section 4 of the Misuse of Drugs Act 1971 (c. 38) (restriction on production and supply of controlled drugs) committed in respect of a relevant Class A drug;
 - (j) an offence under section 5(2) of that Act of 1971 (possession of controlled drug) committed in respect of a relevant Class A drug;
 - (k) an offence under section 5(3) of that Act of 1971 (possession of controlled drug with intent to supply) committed in respect of a relevant Class A drug;
- “senior police officer” means a police officer of a rank no lower than inspector.]

Textual Amendments

- F1** Ss. 20A, 20B and preceding cross-heading inserted (1.1.2007 for certain purposes, 25.2.2007 in regard to the inserted s. 20B(3), and otherwise in force at 12.6.2007) by [Police, Public Order and Criminal Justice \(Scotland\) Act 2006 \(asp 10\)](#), **ss. 84, 104**; [S.S.I. 2006/607](#), **art. 3**, Sch.; [S.S.I. 2007/84](#), {art. 3(1)(a)(4)(a)}

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