



Criminal Procedure (Scotland) Act 1995

1995 CHAPTER 46

PART II

POLICE FUNCTIONS

[^{F1}Testing for Class A drugs

[^{F1}20B Section 20A: supplementary

- (1) Section 20A of this Act does not prejudice the generality of section 18 of this Act.
- (2) Each person carrying out a function under section 20A of this Act must have regard to any guidance issued by the Scottish Ministers—
 - (a) about the carrying out of the function; or
 - (b) about matters connected to the carrying out of the function.
- (3) An order under section 20A(3)(c) shall be subject to annulment in pursuance of a resolution of the Scottish Parliament.
- (4) An authorisation for the purposes of section 20A of this Act may be given orally or in writing but, if given orally, the person giving it shall confirm it in writing as soon as is reasonably practicable.
- (5) If a sample is provided or taken under section 20A of this Act by virtue of an authorisation, the authorisation and the grounds for the suspicion are to be recorded in writing as soon as is reasonably practicable after the sample is provided or taken.
- (6) A person guilty of an offence under section 20A of this Act shall be liable on summary conviction to the following penalties—
 - (a) a fine not exceeding level 4 on the standard scale;
 - (b) imprisonment for a period—
 - (i) where conviction is in the district court, not exceeding 60 days; or
 - (ii) where conviction is in the sheriff court, not exceeding 3 months; or
 - (c) both such fine and imprisonment.

Status: Point in time view as at 16/08/2013.

Changes to legislation: Criminal Procedure (Scotland) Act 1995, Section 20B is up to date with all changes known to be in force on or before 04 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)

- (7) Subject to subsection (8) below, a sample provided or taken under section 20A of this Act shall be destroyed as soon as possible following its analysis for the purpose for which it was taken.
- (8) Where an analysis of the sample reveals that a relevant Class A drug is present in the person's body, the sample may be retained so that it can be used, and supplied to others, for the purpose of any proceedings against the person for an offence under section 88 of the Police, Public Order and Criminal Justice (Scotland) Act 2006 (asp 10); but—
- (a) the sample may not be used, or supplied, for any other purpose; and
 - (b) the sample shall be destroyed as soon as possible once it is no longer capable of being used for that purpose.
- (9) Information derived from a sample provided by or taken from a person under section 20A of this Act may be used and disclosed only for the following purposes—
- (a) for the purpose of proceedings against the person for an offence under section 88 of the Police, Public Order and Criminal Justice (Scotland) Act 2006 (asp 10);
 - (b) for the purpose of informing any decision about granting bail in any criminal proceedings to the person;
 - (c) for the purpose of informing any decision of a children's hearing arranged to consider the person's case;
 - (d) where the person is convicted of an offence, for the purpose of informing any decision about the appropriate sentence to be passed by a court and any decision about the person's supervision or release;
 - (e) for the purpose of ensuring that appropriate advice and treatment is made available to the person.
- (10) Subject to subsection (11) below, the Scottish Ministers may by order made by statutory instrument modify section 20A(8) of this Act for either of the following purposes—
- (a) for the purpose of adding an offence to or removing an offence from those for the time being listed in the definition of “relevant offence”;
 - (b) for the purpose of adding a substance, preparation or product to or removing a substance, preparation or product from those for the time being listed in the definition of “relevant Class A drug”.
- (11) An order under subsection (10)(b) may add a substance, preparation or product only if it is a Class A drug (that expression having the same meaning as in the Misuse of Drugs Act 1971 (c. 38)).
- (12) An order under subsection (10) above shall not be made unless a draft of the statutory instrument containing it has been laid before and approved by resolution of the Scottish Parliament.]

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)}.

Status:

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