



# Armed Forces Act 2001

## 2001 CHAPTER 19

### PART 4

#### MISCELLANEOUS AND GENERAL

##### *Testing for alcohol or drugs*

### **32 Powers to test for alcohol or drugs after serious incident**

- (1) This section applies where—
- (a) an incident has occurred which, in the opinion of an officer designated for the purposes of this subsection in accordance with regulations made by the Defence Council (in this section referred to as “the designated officer”)—
    - (i) resulted in, or
    - (ii) created a risk of,death or serious injury to any person or serious damage to any property; and
  - (b) in the opinion of the designated officer, it is possible that one or more persons subject to service law may have caused, or in any way contributed—
    - (i) to the occurrence of the incident, or
    - (ii) to any death or serious injury to any person or serious damage to any property resulting from it, or to the risk of any such death, injury or damage occurring.
- (2) Any designation made for the purposes of subsection (1) may be expressed to have effect only in relation to a particular incident or description of incident.
- (3) Where the designated officer is the commanding officer of any person in relation to whom he is of the opinion referred to in subsection (1)(b), the designated officer may request that person to provide a sample for the purpose of ascertaining whether, or to what extent, that person has, or has had, alcohol or drugs in his body.
- (4) Where the designated officer is of the opinion referred to in subsection (1)(b) in relation to one or more persons as respects whom he is not the commanding officer,

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*Status: This is the original version (as it was originally enacted).*

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the designated officer may direct the commanding officer of any person specified in the direction, or of persons falling within a class so specified—

- (a) to request that person, or (as the case may be) every person appearing to the commanding officer to fall within the specified class, to provide a sample for the purpose referred to in subsection (3); or
  - (b) to consider whether the commanding officer is of the opinion referred to in subsection (1)(b) in respect of that person or (as the case may be) of any persons falling within the specified class and, if so, to request that person or (as the case may be) every person who appears to him to fall within that class and as to whom he is of that opinion, to provide a sample for the purpose referred to in subsection (3).
- (5) The Defence Council may by regulations make provision about the obtaining of samples under subsection (3) or (4) and the testing of such samples; and any such regulations may in particular make provision—
  - (a) as to the number of samples which a commanding officer may request a person to provide;
  - (b) as to the circumstances in which a commanding officer may request a person to provide more than one type of sample;
  - (c) enabling the commanding officer making the request to specify the manner in which the sample is to be provided;
  - (d) as to the circumstances in which a person who would (apart from regulations made under this paragraph) be liable to be requested to provide a sample under subsection (3) or (4) is not to be so requested;
  - (e) as to the equipment to be used, and the procedures to be followed, in obtaining samples and conducting tests;
  - (f) as to the qualifications and training of any persons engaged in obtaining samples and conducting tests.
- (6) The results of tests performed on samples provided by a person pursuant to a request made under subsection (3) or (4) shall not be admissible in evidence against—
  - (a) that person, or
  - (b) any other person,in proceedings before a court-martial, commanding officer or appropriate superior authority.
- (7) The Defence Council may by regulations provide for the delegation—
  - (a) by a designated officer of his functions under subsections (1), (3) and (4); and
  - (b) by a commanding officer of his functions under subsection (4).
- (8) Nothing in this section—
  - (a) limits the powers conferred by—
    - (i) sections 6 and 7 of the Road Traffic Act 1988 (c. 52) (breath tests and provision of specimens for analysis), as applied by section 184 of that Act, or
    - (ii) any provision of Part 5 of the Police and Criminal Evidence Act 1984 (c. 60) as applied by order under section 113(1) of that Act; or
  - (b) affects the admissibility in any proceedings of evidence obtained under those powers.
- (9) Schedule 5 (which contains amendments of the 1955 Acts and the 1957 Act relating to testing for alcohol and drugs) shall have effect.