



# Drugs Act 2005

## 2005 CHAPTER 17

### PART 2

#### POLICE POWERS RELATING TO DRUGS

#### **7 Testing for presence of Class A drugs**

- (1) Section 63B of the Police and Criminal Evidence Act 1984 (c. 60) (“PACE”) (testing for presence of Class A drugs) is amended in accordance with subsections (2) to (12).
- (2) In subsection (1) for “the following conditions are met” substitute “—
  - (a) either the arrest condition or the charge condition is met;
  - (b) both the age condition and the request condition are met; and
  - (c) the notification condition is met in relation to the arrest condition, the charge condition or the age condition (as the case may be).”
- (3) After subsection (1) insert—

“(1A) The arrest condition is that the person concerned has been arrested for an offence but has not been charged with that offence and either—
  - (a) the offence is a trigger offence; or
  - (b) a police officer of at least the rank of inspector has reasonable grounds for suspecting that the misuse by that person of a specified Class A drug caused or contributed to the offence and has authorised the sample to be taken.”
- (4) In subsection (2), for “The first condition is” substitute “ The charge condition is either ”.
- (5) For subsection (3) substitute—

“(3) The age condition is—
  - (a) if the arrest condition is met, that the person concerned has attained the age of 18;
  - (b) if the charge condition is met, that he has attained the age of 14.”

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*Changes to legislation: There are currently no known outstanding effects  
for the Drugs Act 2005, Section 7. (See end of Document for details)*

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- (6) In subsection (4), for “third” substitute “ request ”.
- (7) After subsection (4) insert—
- “(4A) The notification condition is that—
- (a) the relevant chief officer has been notified by the Secretary of State that appropriate arrangements have been made for the police area as a whole, or for the particular police station, in which the person is in police detention, and
- (b) the notice has not been withdrawn.
- (4B) For the purposes of subsection (4A) above, appropriate arrangements are arrangements for the taking of samples under this section from whichever of the following is specified in the notification—
- (a) persons in respect of whom the arrest condition is met;
- (b) persons in respect of whom the charge condition is met;
- (c) persons who have not attained the age of 18.”
- (8) In subsection (5)(b) after “subsection” insert “ (1A)(b) or ”.
- (9) After subsection (5A) insert—
- “(5B) If a sample is taken under this section from a person in respect of whom the arrest condition is met no other sample may be taken from him under this section during the same continuous period of detention but—
- (a) if the charge condition is also met in respect of him at any time during that period, the sample must be treated as a sample taken by virtue of the fact that the charge condition is met;
- (b) the fact that the sample is to be so treated must be recorded in the person's custody record.
- (5C) Despite subsection (1)(a) above, a sample may be taken from a person under this section if—
- (a) he was arrested for an offence (the first offence),
- (b) the arrest condition is met but the charge condition is not met,
- (c) before a sample is taken by virtue of subsection (1) above he would (but for his arrest as mentioned in paragraph (d) below) be required to be released from police detention,
- (d) he continues to be in police detention by virtue of his having been arrested for an offence not falling within subsection (1A) above, and
- (e) the sample is taken before the end of the period of 24 hours starting with the time when his detention by virtue of his arrest for the first offence began.
- (5D) A sample must not be taken from a person under this section if he is detained in a police station unless he has been brought before the custody officer.”
- (10) For subsection (6A) substitute—
- “(6A) The Secretary of State may by order made by statutory instrument amend—
- (a) paragraph (a) of subsection (3) above, by substituting for the age for the time being specified a different age specified in the order, or different ages so specified for different police areas so specified;

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- (b) paragraph (b) of that subsection, by substituting for the age for the time being specified a different age specified in the order.”
- (11) In subsection (7), after paragraph (a) insert—
  - “(aa) for the purpose of informing any decision about the giving of a conditional caution under Part 3 of the Criminal Justice Act 2003 to the person concerned;”.
- (12) Subsection (9) is omitted.
- (13) On the day this section comes into force the notification condition must be treated as being met—
  - (a) for the purposes of the charge condition in relation to a police area, if subsection (2) of section 63B of PACE is in force immediately before that day in relation to the police area;
  - (b) for the purposes of the age condition in relation to a police area or police station, if before that day notification was given under subsection (9) of that section in relation to the police area or police station and was not withdrawn, and “age condition”, “charge condition” and “notification condition” have the same meaning as in section 63B of PACE (as amended by this section).
- (14) Subsection (13) above does not prevent the Secretary of State withdrawing a notification which is treated as made by virtue of that subsection.

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**Commencement Information**

**II** S. 7 in force at 1.12.2005 by S.I. 2005/3053, art. 2(1)(a)

**Changes to legislation:**

There are currently no known outstanding effects for the Drugs Act 2005, Section 7.