



# Drugs Act 2005

## 2005 CHAPTER 17

### PART 2

#### POLICE POWERS RELATING TO DRUGS

### **3 Drug offence searches: England and Wales**

(1) Section 55 of the Police and Criminal Evidence Act 1984 (c. 60) (intimate searches) is amended as follows.

(2) After subsection (3) insert—

“(3A) A drug offence search shall not be carried out unless the appropriate consent has been given in writing.

(3B) Where it is proposed that a drug offence search be carried out, an appropriate officer shall inform the person who is to be subject to it—

- (a) of the giving of the authorisation for it; and
- (b) of the grounds for giving the authorisation.”

(3) After subsection (10) insert—

“(10A) If the intimate search is a drug offence search, the custody record relating to that person shall also state—

- (a) the authorisation by virtue of which the search was carried out;
- (b) the grounds for giving the authorisation; and
- (c) the fact that the appropriate consent was given.”

(4) In subsection (11), for “subsection (10)” substitute “ subsections (10) and (10A) ”.

(5) After subsection (13) insert—

“(13A) Where the appropriate consent to a drug offence search of any person was refused without good cause, in any proceedings against that person for an offence—

- (a) the court, in determining whether there is a case to answer;

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*Changes to legislation: There are currently no known outstanding effects for the Drugs Act 2005, Section 3. (See end of Document for details)*

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- (b) a judge, in deciding whether to grant an application made by the accused under paragraph 2 of Schedule 3 to the Crime and Disorder Act 1998 (applications for dismissal); and
- (c) the court or jury, in determining whether that person is guilty of the offence charged,

may draw such inferences from the refusal as appear proper.”

(6) In subsection (17) at the appropriate place insert—

““appropriate officer” means—

- (a) a constable,
- (b) a person who is designated as a detention officer in pursuance of section 38 of the Police Reform Act 2002 if his designation applies paragraph 33D of Schedule 4 to that Act, or
- (c) a person who is designated as a staff custody officer in pursuance of section 38 of that Act if his designation applies paragraph 35C of Schedule 4 to that Act;”.

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**Commencement Information**

**II** S. 3 in force at 1.1.2006 by S.I. 2005/3053, art. 3(b)

**Changes to legislation:**

There are currently no known outstanding effects for the Drugs Act 2005, Section 3.