



Police Reform Act 2002

2002 CHAPTER 30

PART 4

POLICE POWERS ETC.

CHAPTER 2

PROVISIONS MODIFYING AND SUPPLEMENTING POLICE POWERS

Blood specimens

58 Equivalent provision for offences connected with transport systems

- (1) In subsection (6) of section 31 of the Transport and Works Act 1992 (c. 42) (constable to decide if specimen is of blood or urine), for the words from “shall be decided” onwards there shall be substituted “and, in the case of a specimen of blood, the question who is to be asked to take it shall be decided (subject to subsection (6A)) by the constable making the requirement”.
- (2) After that subsection there shall be inserted—
 - “(6A) Where a constable decides for the purposes of subsection (6) to require the provision of a specimen of blood, there shall be no requirement to provide such a specimen if—
 - (a) the medical practitioner who is asked to take the specimen is of the opinion that, for medical reasons, it cannot or should not be taken; or
 - (b) the registered health care professional who is asked to take it is of that opinion and there is no contrary opinion from a medical practitioner,and, where by virtue of this subsection there can be no requirement to provide a specimen of blood, the constable may require a specimen of urine instead.”
- (3) After subsection (9) of that section there shall be inserted—

Status: This is the original version (as it was originally enacted).

“(9A) In this section “health care professional” means a person (other than a medical practitioner) who is—

- (a) a registered nurse; or
- (b) a registered member of a health care profession which is designated for the purposes of this paragraph by an order made by the Secretary of State.

(9B) A health care profession is any profession mentioned in section 60(2) of the Health Act 1999 (c. 8) other than the profession of practising medicine and the profession of nursing.

(9C) An order under subsection (9A)(b) shall be made by statutory instrument; and any such statutory instrument shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

(4) After section 31 of that Act there shall be inserted—

“31A Specimens of blood taken from persons incapable of consenting

(1) A constable may make a request to a medical practitioner for him to take a specimen of blood from a person (“the person concerned”) irrespective of whether that person consents if—

- (a) that person is a person from whom the constable would (in the absence of any incapacity of that person and of any objection under section 33) be entitled under section 31 to require the provision of a specimen of blood for a laboratory test;
- (b) it appears to that constable that that person has been involved in—
 - (i) an accident that constitutes or is comprised in the matter that is under investigation or the circumstances of that matter; or
 - (ii) a dangerous incident (within the meaning given by section 29(3)) that constitutes or is comprised in that matter or those circumstances;
- (c) it appears to that constable that that person is or may be incapable (whether or not he has purported to do so) of giving a valid consent to the taking of a specimen of blood; and
- (d) it appears to that constable that that person’s incapacity is attributable to medical reasons.

(2) A request under this section—

- (a) shall not be made to a medical practitioner who for the time being has any responsibility (apart from the request) for the clinical care of the person concerned; and
- (b) shall not be made to a medical practitioner other than a police medical practitioner unless—
 - (i) it is not reasonably practicable for the request to be made to a police medical practitioner; or
 - (ii) it is not reasonably practicable for such a medical practitioner (assuming him to be willing to do so) to take the specimen.

(3) It shall be lawful for a medical practitioner to whom a request is made under this section, if he thinks fit—

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

- (a) to take a specimen of blood from the person concerned irrespective of whether that person consents; and
 - (b) to provide the sample to a constable.
 - (4) If a specimen is taken in pursuance of a request under this section, the specimen shall not be subjected to a laboratory test unless the person from whom it was taken—
 - (a) has been informed that it was taken; and
 - (b) has been required by a constable to give his permission for a laboratory test of the specimen; and
 - (c) has given his permission.
 - (5) A constable must, on requiring a person to give his permission for the purposes of this section for a laboratory test of a specimen, warn that person that a failure to give the permission, may render him liable to prosecution.
 - (6) A person who, without reasonable excuse, fails to give his permission for a laboratory test of a specimen of blood taken from him under this section is guilty of an offence.
 - (7) In this section “police medical practitioner” means a medical practitioner who is engaged under any agreement to provide medical services for purposes connected with the activities of a police force.”
- (5) In section 33 of that Act (protection of hospital patients), for subsection (2) there shall be substituted—
- “(1A) While a person is at a hospital as a patient, no specimen of blood shall be taken from him under section 31A of this Act and he shall not be required to give his permission for a laboratory test of a specimen taken under that section unless the medical practitioner in immediate charge of his case—
- (a) has been notified of the proposal to take the specimen or to make the requirement; and
 - (b) has not objected on the ground specified in subsection (2).
- (2) The ground on which the medical practitioner may object is—
- (a) in a case falling within subsection (1), that the requirement or the provision of the specimen or (if one is required) the warning required by section 31(9) of this Act would be prejudicial to the proper care and treatment of the patient; and
 - (b) in a case falling within subsection (1A), that the taking of the specimen, the requirement or the warning required by section 31A(5) of this Act would be so prejudicial.”
- (6) In subsection (1)(a) of section 34 of that Act (evidence of blood alcohol level) after “provided by” there shall be inserted “or taken from”.
- (7) In subsection (2)(a) of that section (rebutting the assumption in subsection (1)(b)), after “provided the specimen” there shall be inserted “or had it taken from him”.
- (8) After subsection (3) of that section there shall be substituted—
- “(3A) Where a specimen of blood was taken from the accused under section 31A, evidence of the proportion of alcohol or any drug found in the specimen is not admissible on behalf of the prosecution in the proceedings unless—

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

- (a) the specimen in which the alcohol or drug was found is one of two parts into which the specimen taken from the accused was divided at the time it was taken; and
 - (b) any request to be supplied with the other part which was made by the accused at the time when he gave his permission for a laboratory test of the specimen was complied with.”
- (9) In section 35(3) of that Act (documentary evidence as to consent) after the words “practitioner”, in both places where they occur, there shall be inserted “or a registered health care professional”.
- (10) After subsection (2) of section 38 of that Act (interpretation of Chapter 1 of Part 2 of that Act) there shall be inserted—
 - “(2A) In this Chapter “registered health care professional” means a person (other than a medical practitioner) who is—
 - (a) a registered nurse; or
 - (b) a registered member of a health care profession which is designated for the purposes of this paragraph by an order made by the Secretary of State.
 - (2B) A health care profession is any profession mentioned in section 60(2) of the Health Act 1999 (c. 8) other than the profession of practising medicine and the profession of nursing.
 - (2C) An order under subsection (2A)(b) shall be made by statutory instrument; and any such statutory instrument shall be subject to annulment in pursuance of a resolution of either House of Parliament.”
- (11) For subsection (5) of that section there shall be substituted—
 - “(5) For the purposes of this Chapter, a person provides a specimen of blood if and only if—
 - (a) he consents to the taking of such a specimen from him; and
 - (b) the specimen is taken from him by a medical practitioner or, if it is taken in a police station, either by a medical practitioner or by a registered health care professional.”