



Criminal Justice Act 2003

2003 CHAPTER 44

PART 1

AMENDMENTS OF POLICE AND CRIMINAL EVIDENCE ACT 1984

5 Drug testing for under-eighteens

- (1) The 1984 Act is amended as follows.
- (2) In section 38 (duties of custody officer after charge)—
 - (a) in subsection (1)—
 - (i) for sub-paragraph (iiia) of paragraph (a) there is substituted—

“(iiia) except in a case where (by virtue of subsection (9) of section 63B below) that section does not apply, the custody officer has reasonable grounds for believing that the detention of the person is necessary to enable a sample to be taken from him under that section;”
 - (ii) in sub-paragraph (i) of paragraph (b), after “satisfied” there is inserted “ (but, in the case of paragraph (a)(iiia) above, only if the arrested juvenile has attained the minimum age) ”
 - (b) in subsection (6A), after the definition of “local authority accommodation” there is inserted—

““minimum age” means the age specified in section 63B(3) below;”
- (3) In section 63B (testing for presence of Class A drugs)—
 - (a) ^{F1}
 - (b) after subsection (5) there is inserted—

“(5A) In the case of a person who has not attained the age of 17—
 - (a) the making of the request under subsection (4) above;

Changes to legislation: *Criminal Justice Act 2003, Section 5 is up to date with all changes known to be in force on or before 19 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) View outstanding changes*

- (b) the giving of the warning and (where applicable) the information under subsection (5) above; and
 - (c) the taking of the sample,
- may not take place except in the presence of an appropriate adult.”,
- (c) after subsection (6) there is inserted—
- “(6A) The Secretary of State may by order made by statutory instrument amend subsection (3) above by substituting for the age for the time being specified a different age specified in the order.
- (6B) A statutory instrument containing an order under subsection (6A) above shall not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.”,
- (d) after subsection (8) there is inserted—
- “(9) In relation to a person who has not attained the age of 18, this section applies only where—
- (a) the relevant chief officer has been notified by the Secretary of State that arrangements for the taking of samples under this section from persons who have not attained the age of 18 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.
- (10) In this section—
- “appropriate adult”, in relation to a person who has not attained the age of 17, means—
- (a) his parent or guardian or, if he is in the care of a local authority or voluntary organisation, a person representing that authority or organisation; or
 - (b) a social worker of a local authority social services department; or
 - (c) if no person falling within paragraph (a) or (b) is available, any responsible person aged 18 or over who is not a police officer or a person employed by the police;
- “relevant chief officer” means—
- (a) in relation to a police area, the chief officer of police of the police force for that police area; or
 - (b) in relation to a police station, the chief officer of police of the police force for the police area in which the police station is situated.”

Textual Amendments

F1 S. 5(3)(a) repealed (1.12.2005) by [Drugs Act 2005 \(c. 17\)](#), ss. 23, 24, Sch. 1 para. 8, [Sch. 2](#); S.I. 2005/3053, [art. 2\(1\)\(f\)](#)

Changes to legislation: Criminal Justice Act 2003, Section 5 is up to date with all changes known to be in force on or before 19 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) [View outstanding changes](#)

Commencement Information

- II** S. 5 wholly in force at 1.12.2005; s. 5 not in force at Royal Assent, see s. 336(3); s. 5 in force for certain purposes at 1.8.2004 by [S.I. 2004/1867](#), **art. 2**; s. 5 in force in so far as not already in force at 1.12.2005 by [S.I. 2005/3055](#), **art. 2**

Changes to legislation:

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Changes and effects yet to be applied to :

- specified provision(s) amendment to earlier commencing SI 2012/2574, Sch. by [S.I. 2012/2761 art. 2](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 150(aa) inserted by [2012 c. 10 Sch. 26 para. 19\(2\)](#) (This amendment not applied to legislation.gov.uk. Sch. 26 para. 19 omitted (11.12.2013) by virtue of 2013 c. 22, Sch. 16 para. 23(2); S.I. 2013/2981, art. 2(d))
- s. 150(ba) inserted by [2012 c. 10 Sch. 26 para. 19\(3\)](#) (This amendment not applied to legislation.gov.uk. Sch. 26 para. 19 omitted (11.12.2013) by virtue of 2013 c. 22, Sch. 16 para. 23(2); S.I. 2013/2981, art. 2(d))
- s. 151(A1) inserted by [2008 c. 4 s. 11\(3\)](#)
- s. 151(1A) inserted by [2008 c. 4 s. 11\(5\)](#)
- s. 151(1A)(b) word substituted by [2008 c. 4 Sch. 4 para. 76\(3\)](#) (This amendment not applied to legislation.gov.uk. S. 151(1A) is still only prospectively inserted by 2008 c. 4, s. 11(5))
- s. 151(1A)(c) substituted by [2009 c. 25 Sch. 17 para. 8\(3\)](#) (This amendment not applied to legislation.gov.uk. S. 151(1A) is still only prospectively inserted by 2008 c. 4, s. 11(5))
- s. 151(2A)(b) substituted by [2009 c. 25 Sch. 17 para. 8\(4\)](#)
- s. 151(4A) inserted by [2009 c. 25 Sch. 17 para. 8\(5\)](#)
- s. 151(8)(a) words substituted by [2009 c. 25 Sch. 17 para. 8\(6\)\(a\)](#)
- s. 151(8)(b) words inserted by [2009 c. 25 Sch. 17 para. 8\(6\)\(b\)\(i\)](#)
- s. 151(8)(b) words substituted by [2009 c. 25 Sch. 17 para. 8\(6\)\(b\)\(ii\)](#)
- s. 151(8)(c)-(f) inserted by [2009 c. 25 Sch. 17 para. 8\(6\)\(c\)](#)
- s. 165(5) inserted by [2014 c. 12 s. 179\(3\)](#)
- s. 237(1A) inserted by [2006 c. 48 s. 34\(3\)](#)
- s. 237(1B)(f)(g) inserted by [2021 c. 11 Sch. 13 para. 40\(b\)](#)
- s. 239A inserted by [2015 c. 2 s. 8\(1\)](#)
- s. 239A cross-heading inserted by [2015 c. 2 Sch. 3 para. 5](#)
- s. 250(5C) inserted by [2015 c. 2 Sch. 3 para. 7\(4\)](#)
- s. 255A(4A) inserted by [2015 c. 2 s. 9\(2\)](#)
- s. 255B(3A) inserted by [2015 c. 2 s. 9\(3\)\(b\)](#)
- s. 255B(4A)-(4C) inserted by [2015 c. 2 s. 9\(3\)\(d\)](#)
- s. 255C(3A) inserted by [2015 c. 2 s. 9\(4\)\(b\)](#)
- s. 255C(4A)-(4C) inserted by [2015 c. 2 s. 9\(4\)\(d\)](#)
- s. 256A(1)-(1B) substituted for s. 256A(1) by [2015 c. 2 s. 9\(6\)\(a\)](#)
- s. 256A(4A)(4B) inserted by [2015 c. 2 s. 9\(6\)\(f\)](#)
- s. 256A(5)(6) substituted for s. 256A(5) by [2015 c. 2 s. 9\(6\)\(g\)](#)
- s. 256AZA inserted by [2015 c. 2 s. 10\(1\)](#)
- s. 257(3) inserted by [2006 c. 48 s. 34\(4\)](#)
- s. 258(1A) inserted by [2006 c. 48 s. 34\(5\)](#)
- s. 260(4)(aa) substituted for word by [2008 c. 4 s. 34\(7\)\(b\)](#) (This amendment not applied to legislation.gov.uk. S. 34(2)(4)(b)(7)(10) omitted (3.12.2012) by virtue of 2012 c. 10, s. 118(4)(b); S.I. 2012/2906, art. 2(d))

- Sch. 15B para. 49A omitted by [S.I. 2019/780 reg. 26\(4\)\(c\)](#) (This amendment not applied to [legislation.gov.uk](#). Regs. 21, 25, 26, 27, 30 revoked (1.12.2020) by 2020 c. 17, Sch. 28; S.I. 2020/1236, reg. 2)
- Sch. 15B para. 49B omitted by [S.I. 2019/780 reg. 26\(4\)\(d\)](#) (This amendment not applied to [legislation.gov.uk](#). Regs. 21, 25, 26, 27, 30 revoked (1.12.2020) by 2020 c. 17, Sch. 28; S.I. 2020/1236, reg. 2)
- Sch. 20B para. 34(6)(7) substituted for Sch. 20B para. 34(6) by [2015 c. 2 Sch. 3 para. 10](#)