



# Police and Criminal Evidence Act 1984

## 1984 CHAPTER 60

### PART V **E+W**

#### QUESTIONING AND TREATMENT OF PERSONS BY POLICE

#### 53 Abolition of certain powers of constables to search persons. **E+W**

- (1) Subject to subsection (2) below, there shall cease to have effect any Act (including a local Act) passed before this Act in so far as it authorises—
- (a) any search by a constable of a person in police detention at a police station; or
  - (b) an intimate search of a person by a constable;
- and any rule of common law which authorises a search such as is mentioned in paragraph (a) or (b) above is abolished.

<sup>F1</sup>(2) .....

#### Textual Amendments

- F1** S. 53(2) repealed by [Prevention of Terrorism \(Temporary Provisions\) Act 1989 \(c. 4, SIF 39:2\)](#), s. 25(2), [Sch. 9 Pt. I](#)

#### 54 Searches of detained persons. **E+W**

- (1) The custody officer at a police station shall ascertain and record or cause to be recorded everything which a person has with him when he is—
- (a) brought to the station after being arrested elsewhere or after being committed to custody by an order of sentence of a court; or
  - <sup>F2</sup>(b) arrested at the station or detained there <sup>F3</sup>, as a person falling within section 34(7), under section 37 above.]
- (2) In the case of an arrested person the record shall be made as part of his custody record.

**Status:** Point in time view as at 24/03/2003. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:** Police and Criminal Evidence Act 1984, Part V is up to date with all changes known to be in force on or before 01 September 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)

- (3) Subject to subsection (4) below, a custody officer may seize and retain any such thing or cause any such thing to be seized and retained.
- (4) Clothes and personal effects may only be seized if the custody officer—
- (a) believes that the person from whom they are seized may use them—
    - (i) to cause physical injury to himself or any other person;
    - (ii) to damage property;
    - (iii) to interfere with evidence; or
    - (iv) to assist him to escape; or
  - (b) has reasonable grounds for believing that they may be evidence relating to an offence.
- (5) Where anything is seized, the person from whom it is seized shall be told the reason for the seizure unless he is—
- (a) violent or likely to become violent; or
  - (b) incapable of understanding what is said to him.
- (6) Subject to subsection (7) below, a person may be searched if the custody officer considers it necessary to enable him to carry out his duty under subsection (1) above and to the extent that the custody officer considers necessary for that purpose.
- [<sup>F4</sup>(6A) A person who is in custody at a police station or is in police detention otherwise than at a police station may at any time be searched in order to ascertain whether he has with him anything which he could use for any of the purposes specified in subsection (4) (a) above.
- (6B) Subject to subsection (6C) below, a constable may seize and retain, or cause to be seized and retained, anything found on such a search.
- (6C) A constable may only seize clothes and personal effects in the circumstances specified in subsection (4) above.]
- (7) An intimate search may not be conducted under this section.
- (8) A search under this section shall be carried out by a constable.
- (9) The constable carrying out a search shall be of the same sex as the person searched.

#### Textual Amendments

- F2** S. 54(1)(b) substituted by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\), s. 147\(a\)](#)
- F3** Words in s. 54(1)(b) substituted (10.4.1995) by 1994 c. 33, s. 168(2), [Sch. 10 para.55](#); [S.I. 1995/721, art. 2](#), [Sch. Appendix A](#)
- F4** S. 54(6A)–(6C) inserted by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\), s. 147\(b\)](#)

#### Modifications etc. (not altering text)

- C1** Ss. 8, 9, 15, 16, 17(1)(b)(2) (4), 18–20, 21, 22(1)–(4), 28, 29, 30(1)–(4)(a)(5)–(11), 31, 32(1)–(9), 34(1)–(5), 35, 36, 37, 39, 40–44, 50, 51(d), 52, 54, 55, 64(1)–(4)(5)(6), Sch. 1 applied with modifications by [S.I. 1985/1800, arts. 3–11, Schs. 1, 2](#)
- S. 54(1)(3)(4)(6)(6A)(8)(9) applied (with modifications) (1.2.1997) by [S.I. 1997/15, art. 2\(1\)](#), Sch.
- S. 54(5)(7) applied (1.2.1997) by [S.I. 1997/15, art. 2\(1\)](#), Sch.

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- C2** S. 54 extended (2.8.1993) by S.I. 1993/1813, art. 6, Sch. 3 paras. 1(2)(b), **3(2)(3)**; s. 54 extended by the said S.I. 1993/1813, art. 6, Sch. 3 paras. 3, 4 as incorporated (with modifications) (1.12.1997) by S.I. 1994/1405, art. 6, Sch. 3 paras. 4(b), 5  
S. 54 extended (2.12.2002) by 2002 c. 30, s. 38, **Sch. 4 Pt. 3 para. 26(1)**; S.I. 2002/2750, (art. 2(a)(ii)(d))
- C3** S. 54 applied (with modifications) (1.1.2004) by The Extradition Act 2003 (Police Powers) Order 2003 (S.I. 2003/3106), **art. 2**  
S. 54 applied (with modifications) by Criminal Justice Act 2003 (c. 44), s. 24B(6) (as inserted (29.6.2007) by Police and Justice Act 2006 (c. 48), **ss. 18(1)**, 53 (with s. 18(2)); S.I. 2007/1614, **art. 2(e)**
- C4** S. 54: power to apply (with modifications) conferred (1.1.2004) by Extradition Act 2003 (c. 41), **ss. 171(3)(a)**, 221; S.I. 2003/3103, **art. 2** (subject to savings in Order (as amended by S.I. 2003/3312, art. 2(2) and S.I. 2003/3258, art. 2(2)))
- C5** S. 54(6A)(6B) extended (2.12.2002) by Police Reform Act 2002 (c. 30), s. 38, **Sch. 4 Pt. 4 para. 34(2)(a)**; S.I. 2002/2750, **art. 2(a)(ii)(d)**  
S. 54(6A)(6B) extended (2.12.2002) by Police Reform Act 2002 (c. 30), s. 38, **Sch. 4 Pt. 4 para. 35(4)(a)**; S.I. 2002/2750, **art. 2(a)(ii)(d)**
- C6** S. 54(6C) applied (2.12.2002) by Police Reform Act 2002 (c. 30), s. 38, **Sch. 4 Pt. 3 para. 26(2)**; S.I. 2002/2750, **art. 2(a)(ii)(d)**  
S. 54(6C) applied (2.12.2002) by Police Reform Act 2002 (c. 30), s. 38, **Sch. 4 Pt. 4 para. 34(2)(b)**; S.I. 2002/2750, **art. 2(a)(ii)(d)**  
S. 54(6C) applied (2.12.2002) by Police Reform Act 2002 (c. 30), s. 38, **Sch. 4 Pt. 4 para. 35(4)(b)**; S.I. 2002/2750, **art. 2(a)(ii)(d)**
- C7** S. 54(9) applied (2.12.2002) by Police Reform Act 2002 (c. 30), s. 38, **Sch. 4 Pt. 3 para. 26(2)**; S.I. 2002/2750, **art. 2(a)(ii)(d)**  
S. 54(9) applied (2.12.2002) by Police Reform Act 2002 (c. 30), s. 38, **Sch. 4 Pt. 4 para. 34(2)(b)**; S.I. 2002/2750, **art. 2(a)(ii)(d)**  
S. 54(9) applied (2.12.2002) by Police Reform Act 2002 (c. 30), s. 38, **Sch. 4 Pt. 4 para. 35(4)(b)**; S.I. 2002/2750, **art. 2(a)(ii)(d)**

#### **[F5]54A Searches and examination to ascertain identity** **E+W**

- (1) If an officer of at least the rank of inspector authorises it, a person who is detained in a police station may be searched or examined, or both—
  - (a) for the purpose of ascertaining whether he has any mark that would tend to identify him as a person involved in the commission of an offence; or
  - (b) for the purpose of facilitating the ascertainment of his identity.
- (2) An officer may only give an authorisation under subsection (1) for the purpose mentioned in paragraph (a) of that subsection if—
  - (a) the appropriate consent to a search or examination that would reveal whether the mark in question exists has been withheld; or
  - (b) it is not practicable to obtain such consent.
- (3) An officer may only give an authorisation under subsection (1) in a case in which subsection (2) does not apply if—
  - (a) the person in question has refused to identify himself; or
  - (b) the officer has reasonable grounds for suspecting that that person is not who he claims to be.
- (4) An officer may give an authorisation under subsection (1) orally or in writing but, if he gives it orally, he shall confirm it in writing as soon as is practicable.

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- (5) Any identifying mark found on a search or examination under this section may be photographed—
- (a) with the appropriate consent; or
  - (b) if the appropriate consent is withheld or it is not practicable to obtain it, without it.
- (6) Where a search or examination may be carried out under this section, or a photograph may be taken under this section, the only persons entitled to carry out the search or examination, or to take the photograph, are<sup>F6</sup> constables]
- (7) A person may not under this section carry out a search or examination of a person of the opposite sex or take a photograph of any part of the body of a person of the opposite sex.
- (8) An intimate search may not be carried out under this section.
- (9) A photograph taken under this section—
- (a) may be used by, or disclosed to, any person for any purpose related to the prevention or detection of crime, the investigation of an offence or the conduct of a prosecution; and
  - (b) after being so used or disclosed, may be retained but may not be used or disclosed except for a purpose so related.
- (10) In subsection —
- (a) the reference to crime includes a reference to any conduct which—
    - (i) constitutes one or more criminal offences (whether under the law of a part of the United Kingdom or of a country or territory outside the United Kingdom); or
    - (ii) is, or corresponds to, any conduct which, if it all took place in any one part of the United Kingdom, would constitute one or more criminal offences;

and
  - (b) the references to an investigation and to a prosecution include references, respectively, to any investigation outside the United Kingdom of any crime or suspected crime and to a prosecution brought in respect of any crime in a country or territory outside the United Kingdom.
- (11) In this section—
- (a) references to ascertaining a person’s identity include references to showing that he is not a particular person; and
  - (b) references to taking a photograph include references to using any process by means of which a visual image may be produced, and references to photographing a person shall be construed accordingly.
- (12) In this section “mark” includes features and injuries; and a mark is an identifying mark for the purposes of this section if its existence in any person’s case facilitates the ascertainment of his identity or his identification as a person involved in the commission of an offence.]

#### **Textual Amendments**

**F5** S. 54A inserted (14.12.2001) by 2001 c. 24, s. 90(1)

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**F6** Words in s. 54A(6) substituted (2.12.2002) by [Police Reform Act 2002 \(c.30\)](#), s. 107, Sch. 7 {para. 9(2)}; [S.I. 2002/2750](#), [art. 2\(b\)\(ii\)](#)

VALID FROM 14/12/2009

**[<sup>F7</sup>54B Searches of persons answering to live link bail E+W**

- (1) A constable may search at any time—
  - (a) any person who is at a police station to answer to live link bail; and
  - (b) any article in the possession of such a person.
- (2) If the constable reasonably believes a thing in the possession of the person ought to be seized on any of the grounds mentioned in subsection (3), the constable may seize and retain it or cause it to be seized and retained.
- (3) The grounds are that the thing—
  - (a) may jeopardise the maintenance of order in the police station;
  - (b) may put the safety of any person in the police station at risk; or
  - (c) may be evidence of, or in relation to, an offence.
- (4) The constable may record or cause to be recorded all or any of the things seized and retained pursuant to subsection (2).
- (5) An intimate search may not be carried out under this section.
- (6) The constable carrying out a search under subsection (1) must be of the same sex as the person being searched.
- (7) In this section “live link bail” means bail granted under Part 4 of this Act subject to the duty mentioned in section 47(3)(b).

**Textual Amendments**

**F7** [Ss. 54B, 54C](#) inserted (14.12.2009 in relation to the relevant local justice areas specified in art. 3(2) of the first commencing S.I.) by [Coroners and Justice Act 2009 \(c. 25\)](#), [ss. 108\(1\)](#), 182 (with s. 180, Sch. 22); [S.I. 2009/3253](#), [art. 3\(1\)\(c\)\(2\)](#) (with art. 4)

VALID FROM 14/12/2009

**54C Power to retain articles seized E+W**

- (1) Except as provided by subsections (2) and (3), a constable may retain a thing seized under section 54B until the time when the person from whom it was seized leaves the police station.
- (2) A constable may retain a thing seized under section 54B in order to establish its lawful owner, where there are reasonable grounds for believing that it has been obtained in consequence of the commission of an offence.

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- (3) If a thing seized under section 54B may be evidence of, or in relation to, an offence, a constable may retain it—
  - (a) for use as evidence at a trial for an offence; or
  - (b) for forensic examination or for investigation in connection with an offence.
- (4) Nothing may be retained for either of the purposes mentioned in subsection (3) if a photograph or copy would be sufficient for that purpose.
- (5) Nothing in this section affects any power of a court to make an order under section 1 of the Police (Property) Act 1897.
- (6) The references in this section to anything seized under section 54B include anything seized by a person to whom paragraph 27A of Schedule 4 to the Police Reform Act 2002 applies.]

#### Textual Amendments

- F7** Ss. 54B, 54C inserted (14.12.2009 in relation to the relevant local justice areas specified in art. 3(2) of the first commencing S.I.) by [Coroners and Justice Act 2009 \(c. 25\)](#), [ss. 108\(1\)](#), 182 (with [s. 180](#), [Sch. 22](#)); [S.I. 2009/3253](#), [art. 3\(1\)\(c\)\(2\)](#) (with [art. 4](#))

## 55 Intimate searches **E+W**

- (1) Subject to the following provisions of this section, if an officer of at least the rank of superintendent has reasonable grounds for believing—
  - (a) that a person who has been arrested and is in police detention may have concealed on him anything which—
    - (i) he could use to cause physical injury to himself or others; and
    - (ii) he might so use while he is in police detention or in the custody of a court; or
  - (b) that such a person—
    - (i) may have a Class A drug concealed on him; and
    - (ii) was in possession of it with the appropriate criminal intent before his arrest,
 he may authorise [<sup>F8</sup>an intimate search] of that person.
- (2) An officer may not authorise an intimate search of a person for anything unless he has reasonable grounds for believing that it cannot be found without his being intimately searched.
- (3) An officer may give an authorisation under subsection (1) above orally or in writing but, if he gives it orally, he shall confirm it in writing as soon as is practicable.
- (4) An intimate search which is only a drug offence search shall be by way of examination by a suitably qualified person.
- (5) Except as provided by subsection (4) above, an intimate search shall be by way of examination by a suitably qualified person unless an officer of at least the rank of superintendent considers that this is not practicable.
- (6) An intimate search which is not carried out as mentioned in subsection (5) above shall be carried out by a constable.

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- (7) A constable may not carry out an intimate search of a person of the opposite sex.
- (8) No intimate search may be carried out except—
  - (a) at a police station;
  - (b) at a hospital;
  - (c) at a registered medical practitioner's surgery; or
  - (d) at some other place used for medical purposes.
- (9) An intimate search which is only a drug offence search may not be carried out at a police station.
- (10) If an intimate search of a person is carried out, the custody record relating to him shall state—
  - (a) which parts of his body were searched; and
  - (b) why they were searched.
- (11) The information required to be recorded by subsection (10) above shall be recorded as soon as practicable after the completion of the search.
- (12) The custody officer at a police station may seize and retain anything which is found on an intimate search of a person, or cause any such thing to be seized and retained—
  - (a) if he believes that the person from whom it is seized may use it—
    - (i) to cause physical injury to himself or any other person;
    - (ii) to damage property;
    - (iii) to interfere with evidence; or
    - (iv) to assist him to escape; or
  - (b) if he has reasonable grounds for believing that it may be evidence relating to an offence.
- (13) Where anything is seized under this section, the person from whom it is seized shall be told the reason for the seizure unless he is—
  - (a) violent or likely to become violent; or
  - (b) incapable of understanding what is said to him.
- (14) Every annual report—
  - [<sup>F9</sup>(a) under section 22 of the <sup>M1</sup>Police Act 1996; or]
  - (b) made by the Commissioner of Police of the Metropolis,shall contain information about searches under this section which have been carried out in the area to which the report relates during the period to which it relates.
- [<sup>F10</sup>(14A) Every annual report under section 57 of the Police Act 1997 (reports by Director General of the National Crime Squad) shall contain information about searches authorised under this section by members of the National Crime Squad during the period to which the report relates.]
- (15) The information about such searches shall include—
  - (a) the total number of searches;
  - (b) the number of searches conducted by way of examination by a suitably qualified person;
  - (c) the number of searches not so conducted but conducted in the presence of such a person; and
  - (d) the result of the searches carried out.



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(16) The information shall also include, as separate items—

- (a) the total number of drug offence searches; and
- (b) the result of those searches.

(17) In this section—

“the appropriate criminal intent” means an intent to commit an offence under—

- (a) section 5(3) of the <sup>M2</sup>Misuse of Drugs Act 1971 (possession of controlled drug with intent to supply to another); or
- (b) section 68(2) of the <sup>M3</sup>Customs and Excise Management Act 1979 (exportation etc. with intent to evade a prohibition or restriction);

“Class A drug” has the meaning assigned to it by section 2(1)(b) of the Misuse of Drugs Act 1971;

“drug offence search” means an intimate search for a Class A drug which an officer has authorised by virtue of subsection (1)(b) above; and

“suitably qualified person” means—

- (a) a registered medical practitioner; or
- (b) a registered nurse.

#### Textual Amendments

**F8** Words substituted by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), s. 170(1), **Sch. 15 para. 99**

**F9** [S. 55\(14\)\(a\)](#) substituted (22.8.1996) by 1996 c. 16, ss. 103(1), 104(1), **Sch. 7 Pt. II para. 36**

**F10** [S. 55\(14A\)](#) inserted (1.4.1998) by 1997 c. 50, s. 134(1), **Sch. 9 para.47**; S.I. 1998/354, **art. 2(2)(ay)**.

#### Modifications etc. (not altering text)

**C8** [Ss. 8, 9, 15, 16, 17\(1\)\(b\)\(2\)](#) (4), 18–20, 21, 22(1)–(4), 28, 29, 30(1)–(4)(a)(5)–(11), 31, 32(1)–(9), 34(1)–(5), 35, 36, 37, 39, 40–44, 50, 51(d), 52, 54, 55, 64(1)–(4)(5)(6), [Sch. 1](#) applied with modifications by [S.I. 1985/1800](#), arts. 3–11, [Schs. 1, 2](#)  
[S. 55\(1\)\(2\)\(3\)\(5\)\(6\)\(7\)\(8\)\(9\)\(10\)\(12\)\(17\)](#) applied (with modifications) (1.2.1997) by [S.I. 1997/15](#), **art. 2(1)**, **Sch.**

[S. 55\(4\)\(11\)\(13\)](#) applied (1.2.1997) by [S.I. 1997/15](#), **art. 2(1)**, **Sch.**

**C9** [S. 55](#) extended (2.8.1993) by [S.I. 1993/1813](#), **art. 6**, [Sch. 3 paras. 1\(2\)\(b\), 3\(2\)\(3\)](#); [s. 55](#) extended by the said [S.I. 1993/1813](#), **art. 6**, [Sch. 3 paras. 3, 4](#) as incorporated (with modifications) (1.12.1997) by [S.I. 1994/1405](#), **art. 6**, [Sch. 3 paras. 4\(b\), 5](#)

**C10** [S. 55\(6\)](#) extended (2.12.2002) by [Police Reform Act 2002 \(c. 30\)](#), s. 38, **Sch. 4 Pt. 3 para. 28(1)**; [S.I. 2002/2750](#), **art. 2(a)(ii)(d)**

**C11** [S. 55\(7\)](#) applied (2.12.2002) by [Police Reform Act 2002 \(c. 30\)](#), s. 38, **Sch. 4 Pt. 3 para. 28(2)**; [S.I. 2002/2750](#), **art. 2(a)(ii)(d)**

#### Marginal Citations

**M1** 1996 C. 16.

**M2** 1971 c. 38.

**M3** 1979 c. 2.



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VALID FROM 01/01/2006

## **[<sup>F11</sup>55A X-rays and ultrasound scans E+W**

- (1) If an officer of at least the rank of inspector has reasonable grounds for believing that a person who has been arrested for an offence and is in police detention—
  - (a) may have swallowed a Class A drug, and
  - (b) was in possession of it with the appropriate criminal intent before his arrest,the officer may authorise that an x-ray is taken of the person or an ultrasound scan is carried out on the person (or both).
- (2) An x-ray must not be taken of a person and an ultrasound scan must not be carried out on him unless the appropriate consent has been given in writing.
- (3) If it is proposed that an x-ray is taken or an ultrasound scan is carried out, an appropriate officer must 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.
- (4) An x-ray may be taken or an ultrasound scan carried out only by a suitably qualified person and only at—
  - (a) a hospital,
  - (b) a registered medical practitioner's surgery, or
  - (c) some other place used for medical purposes.
- (5) The custody record of the person must also state—
  - (a) the authorisation by virtue of which the x-ray was taken or the ultrasound scan was carried out,
  - (b) the grounds for giving the authorisation, and
  - (c) the fact that the appropriate consent was given.
- (6) The information required to be recorded by subsection (5) must be recorded as soon as practicable after the x-ray has been taken or ultrasound scan carried out (as the case may be).
- (7) Every annual report—
  - (a) under section 22 of the Police Act 1996, or
  - (b) made by the Commissioner of Police of the Metropolis,must contain information about x-rays which have been taken and ultrasound scans which have been carried out under this section in the area to which the report relates during the period to which it relates.
- (8) The information about such x-rays and ultrasound scans must be presented separately and must include—
  - (a) the total number of x-rays;
  - (b) the total number of ultrasound scans;
  - (c) the results of the x-rays;
  - (d) the results of the ultrasound scans.
- (9) If the appropriate consent to an x-ray or ultrasound scan of any person is refused without good cause, in any proceedings against that person for an offence—

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

- (10) In this section “the appropriate criminal intent”, “appropriate officer”, “Class A drug” and “suitably qualified person” have the same meanings as in section 55 above.]

#### Textual Amendments

**F11** S. 55A inserted (1.1.2006) by [Drugs Act 2005 \(c. 17\)](#), **ss. 5(1), 24**; S.I. 2005/3053, **art. 3(c)**

#### Modifications etc. (not altering text)

**C12** S. 55A applied (with modifications) (31.12.2006) by [The Police and Criminal Evidence Act 1984 \(Application to the Armed Forces\) Order 2006 \(S.I. 2006/2015\)](#), arts. 2, 3, **Schs. 1-3**

S. 55A applied (with modifications) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 24B(1)-(3) (as inserted (29.6.2007) by [Police and Justice Act 2006 \(c. 48\)](#), **ss. 18(1), 53** (with s. 18(2)); S.I. 2007/1614, **art. 2(e)**)

## 56 **vb Right to have someone informed when arrested.** **E+W**

- (1) Where a person has been arrested and is being held in custody in a police station or other premises, he shall be entitled, if he so requests, to have one friend or relative or other person who is known to him or who is likely to take an interest in his welfare told, as soon as is practicable except to the extent that delay is permitted by this section, that he has been arrested and is being detained there.
- (2) Delay is only permitted—
  - (a) in the case of a person who is in police detention for a serious arrestable offence; and
  - (b) if an officer of at least the rank of superintendent authorises it.
- (3) In any case the person in custody must be permitted to exercise the right conferred by subsection (1) above within 36 hours from the relevant time, as defined in section 41(2) above.
- (4) An officer may give an authorisation under subsection (2) above orally or in writing but, if he gives it orally, he shall confirm it in writing as soon as is practicable.
- (5) [<sup>F12</sup>Subject to sub-section (5A) below] An officer may only authorise delay where he has reasonable grounds for believing that telling the named person of the arrest—
  - (a) will lead to interference with or harm to evidence connected with a serious arrestable offence or interference with or physical injury to other persons; or
  - (b) will lead to the alerting of other persons suspected of having committed such an offence but not yet arrested for it; or
  - (c) will hinder the recovery of any property obtained as a result of such an offence.

[<sup>F13</sup>(5A) An officer may also authorise delay where he has reasonable grounds for believing that—

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**Changes to legislation:** Police and Criminal Evidence Act 1984, Part V is up to date with all changes known to be in force on or before 01 September 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)

- (a) the person detained for the serious arrestable offence has benefited from his criminal conduct, and
  - (b) the recovery of the value of the property constituting the benefit will be hindered by telling the named person of the arrest.
- (5B) For the purposes of subsection (5A) above the question whether a person has benefited from his criminal conduct is to be decided in accordance with Part 2 of the Proceeds of Crime Act 2002.]
- (6) If a delay is authorised—
- (a) the detained person shall be told the reason for it; and
  - (b) the reason shall be noted on his custody record.
- (7) The duties imposed by subsection (6) above shall be performed as soon as is practicable.
- (8) The rights conferred by this section on a person detained at a police station or other premises are exercisable whenever he is transferred from one place to another; and this section applies to each subsequent occasion on which they are exercisable as it applies to the first such occasion.
- (9) There may be no further delay in permitting the exercise of the right conferred by subsection (1) above once the reason for authorising delay ceases to subsist.
- [<sup>F14</sup>(10) Nothing in this section applies to a person arrested or detained under the terrorism provisions.]

#### Textual Amendments

- F12** Words inserted by [Drug Trafficking Offences Act 1986 \(c. 32, SIF 39:1\)](#), **s. 32(1)**
- F13** S. 56(5A)(5B) substituted (24.3.2003) for s. 56(5A) by [Proceeds of Crime Act 2002 \(c. 29\)](#), **ss. 456, 458(1)(3), Sch. 11 para. 14(2)**; [S.I. 2003/333](#), **art. 2, Sch.** (subject to transitional provisions and savings in [arts. 3-14](#)) (as amended by [S.I. 2003/531](#), [arts. 3, 4](#))
- F14** S. 56(10) substituted (19.2.2001) for s. 56(10)(11) by [2000 c. 11](#), **s. 125, Sch. 15 para. 5(5)** (with [s. 129\(1\)](#)); [S.I. 2001/421](#), **art. 2**

#### Modifications etc. (not altering text)

- C13** S. 56 applied with modifications by [S.I. 1985/1800](#), [arts. 3–11](#), [Schs. 1, 2](#) and [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), **s. 99(4)**  
S. 56(1)–(6)(8) applied (with modifications) (1.2.1997) by [S.I. 1997/15](#), **art. 2(1), Sch.**  
S. 56(7)(9) applied (1.2.1997) by [S.I. 1997/15](#), **art. 2(1), Sch.**
- C14** S. 56 extended (2.8.1993) by [S.I. 1993/1813](#), **art. 6, Sch. 3 paras. 1(2)(b), 3(2)(3)**; s. 56 extended by the said [S.I. 1993/1813](#), **art. 6, Sch. 3 paras. 3(3), 4** as incorporated (with modifications) (1.12.1997) by [S.I. 1994/1405](#), **art. 6, Sch. 3 paras. 4(b)(d), 5**
- C15** S. 56(1)–(9) modified (2.8.1993) by [S.I. 1993/1813](#), **art. 6, Sch. 3 para. 3(3)**.

## 57 Additional rights of children and young persons. **E+W**

The following subsections shall be substituted for section 34(2) of the <sup>M4</sup>Children and Young Persons Act 1933—

**Status:** Point in time view as at 24/03/2003. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:** Police and Criminal Evidence Act 1984, Part V is up to date with all changes known to be in force on or before 01 September 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)

- “(2) Where a child or young person is in police detention, such steps as are practicable shall be taken to ascertain the identity of a person responsible for his welfare.
- (3) If it is practicable to ascertain the identity of a person responsible for the welfare of the child or young person, that person shall be informed, unless it is not practicable to do so—
- (a) that the child or young person has been arrested;
  - (b) why he has been arrested; and
  - (c) where he is being detained.
- (4) Where information falls to be given under subsection (3) above, it shall be given as soon as it is practicable to do so.
- (5) For the purposes of this section the persons who may be responsible for the welfare of a child or young person are—
- (a) his parent or guardian; or
  - (b) any other person who has for the time being assumed responsibility for his welfare.
- (6) If it is practicable to give a person responsible for the welfare of the child or young person the information required by subsection (3) above, that person shall be given it as soon as it is practicable to do so.
- (7) If it appears that at the time of his arrest a supervision order, as defined in section 11 of the Children and Young Persons Act 1969, is in force in respect of him, the person responsible for his supervision shall also be informed as described in subsection (3) above as soon it is reasonably practicable to do so.
- (8) The reference to a parent or guardian in subsection (5) above is—
- (a) in the case of a child or young person in the care of a local authority, a reference to that authority; and
  - (b) in the case of a child or young person in the care of a voluntary organisation in which parental rights and duties with respect to him are vested by virtue of a resolution under section 64(1) of the Child Care Act 1980, a reference to that organisation.
- (9) The rights conferred on a child or young person by subsections (2) to (8) above are in addition to his rights under section 56 of the Police and Criminal Evidence Act 1984.
- (10) The reference in subsection (2) above to a child or young person who is in police detention includes a reference to a child or young person who has been detained under the terrorism provisions; and in subsection (3) above “arrest” includes such detention.
- (11) In subsection (10) above “the terrorism provisions” has the meaning assigned to it by section 65 of the Police and Criminal Evidence Act 1984”.

**Modifications etc. (not altering text)**

**C16** S. 57(1)–(9) expressed to be applied with modifications by [S.I. 1985/1800](#), arts. 3–11, [Schs. 1, 2](#)

*Status: Point in time view as at 24/03/2003. This version of this part contains provisions that are not valid for this point in time.*

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#### Marginal Citations

M4 1933 c. 12.

### 58 Access to legal advice. **E+W**

- (1) A person arrested and held in custody in a police station or other premises shall be entitled, if he so requests, to consult a solicitor privately at any time.
- (2) Subject to subsection (3) below, a request under subsection (1) above and the time at which it was made shall be recorded in the custody record.
- (3) Such a request need not be recorded in the custody record of a person who makes it at a time while he is at a court after being charged with an offence.
- (4) If a person makes such a request, he must be permitted to consult a solicitor as soon as is practicable except to the extent that delay is permitted by this section.
- (5) In any case he must be permitted to consult a solicitor within 36 hours from the relevant time, as defined in section 41(2) above.
- (6) Delay in compliance with a request is only permitted—
  - (a) in the case of a person who is in police detention for a serious arrestable offence; and
  - (b) if an officer of at least the rank of superintendent authorises it.
- (7) An officer may give an authorisation under subsection (6) above orally or in writing but, if he gives it orally, he shall confirm it in writing as soon as is practicable.
- (8) [<sup>F15</sup>Subject to sub-section (8A) below] An officer may only authorise delay where he has reasonable grounds for believing that the exercise of the right conferred by subsection (1) above at the time when the person detained desires to exercise it—
  - (a) will lead to interference with or harm to evidence connected with a serious arrestable offence or interference with or physical injury to other persons; or
  - (b) will lead to the alerting of other persons suspected of having committed such an offence but not yet arrested for it; or
  - (c) will hinder the recovery of any property obtained as a result of such an offence.
- [<sup>F16</sup>(8A) An officer may also authorise delay where he has reasonable grounds for believing that—
  - (a) the person detained for the serious arrestable offence has benefited from his criminal conduct, and
  - (b) the recovery of the value of the property constituting the benefit will be hindered by the exercise of the right conferred by subsection (1) above.
- (8B) For the purposes of subsection (8A) above the question whether a person has benefited from his criminal conduct is to be decided in accordance with Part 2 of the Proceeds of Crime Act 2002.]
- (9) If delay is authorised—
  - (a) the detained person shall be told the reasons for it; and
  - (b) the reason shall be noted on his custody record.
- (10) The duties imposed by subsection (9) above shall be performed as soon as is practicable.

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(11) There may be no further delay in permitting the exercise of the right conferred by subsection (1) above once the reason for authorising delay ceases to subsist.

[<sup>F17</sup>(12) Nothing in this section applies to a person arrested or detained under the terrorism provisions.]

**Textual Amendments**

**F15** Words inserted by [Drug Trafficking Offences Act 1986 \(c. 32, SIF 39:1\)](#), **s. 32(2)**

**F16** S. 58(8A)(8B) substituted (24.3.2003) for s. 58(8A) by [Proceeds of Crime Act 2002 \(c. 29\)](#), ss. 456, 458(1)(3), **Sch. 11 para. 14(3)**; S.I. 2003/333, **art. 2, Sch.** (subject to transitional provisions and savings in arts. 3-14) (as amended by S.I. 2003/531, arts. 3, 4)

**F17** S. 58(12) substituted (19.2.2001) for s. 58(12)-(18) by 2000 c. 11, s. 125, **Sch. 15 para. 5(6)** (with s. 129(1)); S.I. 2000/421, **art. 2**

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**Modifications etc. (not altering text)**

**C17** S. 58 applied with modifications by S.I. 1985/1882, **art. 4**, 1985/1800, arts. 3–11, Schs. 1, 2 and [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), **s. 99(4)**  
S. 58(1)(2)(4)(6)-(9) applied (with modifications) (1.2.1997) by S.I. 1997/15, art. 2(1), **Sch.**  
S. 58(10)(11) applied (1.2.1997) by S.I. 1997/15, art. 2(1), **Sch.**

**C18** S. 58 extended (2.8.1993) by S.I. 1993/1813, art. 6, **Sch. 3 paras. 1(2)(b), 3(2)(3)**; s. 58 extended by the said S.I. 1993/1813, art. 6, **Sch. 3 paras. 3(3), 4** as incorporated (with modifications) (1.12.1997) by S.I. 1994/1405, art. 6, **Sch. 3 paras. 4(b)(d), 5**

**C19** S. 58: power to apply (with modifications) conferred (1.1.2004) by [Extradition Act 2003 \(c. 41\)](#), **ss. 171(3)(d), 221**; S.I. 2003/3103, **art. 2** (subject to savings in Order (as amended by S.I. 2003/3312, art. 2(2) and S.I. 2003/3258, art. 2(2)))

**C20** S. 58 applied (with modifications) (1.1.2004) [The Extradition Act 2003 \(Police Powers\) Order 2003 \(S.I. 2003/3106\)](#), **art. 2**

**C21** S. 58(1)-(11) modified (2.8.1993) by S.I. 1993/1813, art. 6, **Sch. 3 para. 3(3)**.

<sup>F18</sup>59 ..... **E+W**

**Textual Amendments**

**F18** S. 59 repealed by [Legal Aid Act 1988 \(c. 34, SIF 77:1\)](#), s. 45, **Sch. 6**

**60 Tape-recording of interviews. **E+W****

- (1) It shall be the duty of the Secretary of State—
- (a) to issue a code of practice in connection with the tape-recording of interviews of persons suspected of the commission of criminal offences which are held by police officers at police stations; and
  - (b) to make an order requiring the tape-recording of interviews of persons suspected of the commission of criminal offences, or of such descriptions of criminal offences as may be specified in the order, which are so held, in accordance with the code as it has effect for the time being.
- (2) An order under subsection (1) above shall be made by statutory instrument and shall be subject to annulment in pursuance of a resolution of either House of Parliament.



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#### Commencement Information

- II** S. 60 wholly in force; s. 60 not in force at Royal Assent see s. 121; s. 60(1)(a) in force at 1.1.1986 by [S.I. 1985/1934](#); s. 60(1)(b) in force in specified areas and s. 60(2) wholly in force at 29.11.1991 by [S.I. 1991/2686](#), [art. 2](#), [Sch.](#); s. 60(1)(b) in force in the Thames Valley police area at 9.11.1992 by [S.I. 1992/2802](#), [art. 2](#).

### [<sup>F19</sup>60A Visual recording of interviews **E+W**

- (1) The Secretary of State shall have power—
  - (a) to issue a code of practice for the visual recording of interviews held by police officers at police stations; and
  - (b) to make an order requiring the visual recording of interviews so held, and requiring the visual recording to be in accordance with the code for the time being in force under this section.
- (2) A requirement imposed by an order under this section may be imposed in relation to such cases or police stations in such areas, or both, as may be specified or described in the order.
- (3) An order under subsection (1) above shall be made by statutory instrument and shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) In this section—
  - (a) references to any interview are references to an interview of a person suspected of a criminal offence; and
  - (b) references to a visual recording include references to a visual recording in which an audio recording is comprised.]

#### Textual Amendments

- F19** S. 60A inserted (19.6.2001) by [2001 c. 16, s. 76\(1\)](#); [S.I. 2001/2223, art. 2\(a\)](#)

### 61 Finger-printing. **E+W**

- (1) Except as provided by this section no person's fingerprints may be taken without the appropriate consent.
- (2) Consent to the taking of a person's fingerprints must be in writing if it is given at a time when he is at a police station.
- (3) The fingerprints of a person detained at a police station may be taken without the appropriate consent—
  - (a) if an officer of at least the rank of superintendent authorises them to be taken; or
  - (b) if—
    - (i) he has been charged with a recordable offence or informed that he will be reported for such an offence; and
    - (ii) he has not had his fingerprints taken in the course of the investigation of the offence by the police.



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[<sup>F20</sup>(3A) Where a person charged with a recordable offence or informed that he will be reported for such an offence has already had his fingerprints taken as mentioned in paragraph (b)(ii) of subsection (3) above, that fact shall be disregarded for the purposes of that subsection if—

- (a) the fingerprints taken on the previous occasion do not constitute a complete set of his fingerprints; or
- (b) some or all of the fingerprints taken on the previous occasion are not of sufficient quality to allow satisfactory analysis, comparison or matching (whether in the case in question or generally).]

(4) An officer may only give an authorisation under subsection 90(2b)3(a) above if he has reasonable grounds—

- (a) for suspecting the involvement of the person whose fingerprints are to be taken in a criminal offence; and
- (b) for believing that his fingerprints will tend to confirm or disprove his involvement [<sup>F21</sup>or will facilitate the ascertainment of his identity (within the meaning of section 54A), or both].

[<sup>F22</sup>but an authorisation shall not be given for the purpose only of facilitating the ascertainment of that person's identity except where he has refused to identify himself or the officer has reasonable grounds for suspecting that he is not who he claims to be.]

[<sup>F23</sup>(4A) The fingerprints of a person who has answered to bail at a court or police station may be taken without the appropriate consent at the court or station if—

- (a) the court, or
- (b) an officer of at least the rank of inspector,

authorises them to be taken.

(4B) A court or officer may only give an authorisation under subsection (4A) if—

- (a) the person who has answered to bail has answered to it for a person whose fingerprints were taken on a previous occasion and there are reasonable grounds for believing that he is not the same person; or
- (b) the person who has answered to bail claims to be a different person from a person whose fingerprints were taken on a previous occasion.]

(5) An officer may give an authorisation under subsection 3(a) [<sup>F24</sup>or (4A)] above orally or in writing but, if he gives it orally, he shall confirm it in writing as soon as is practicable.

(6) Any person's fingerprints may be taken without the appropriate consent if

- [<sup>F25</sup>(a) he has been convicted of a recordable offence;
- (b) he has been given a caution in respect of a recordable offence which, at the time of the caution, he has admitted; or
- (c) he has been warned or reprimanded under section 65 of the Crime and Disorder Act 1998 (c. 37) for a recordable offence.]

(7) In a case where by virtue of subsection (3) or (6) above a person's fingerprints are taken without the appropriate consent—

- (a) he shall be told the reason before his fingerprints are taken; and
- (b) the reason shall be recorded as soon as is practicable after the fingerprints are taken.

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- [<sup>F26</sup>(7A) If a person's fingerprints are taken at a police station, whether with or without the appropriate consent—
- (a) before the fingerprints are taken, an officer shall inform him that they may be the subject of a speculative search; and
  - (b) the fact that the person has been informed of this possibility shall be recorded as soon as is practicable after the fingerprints have been taken.]
- (8) If he is detained at a police station when the fingerprints are taken, the reason for taking them [<sup>F27</sup>and, in the case falling within subsection (7A) above, the fact referred to in paragraph (b) of that subsection] shall be recorded on his custody record.
- [<sup>F28</sup>(8B) The power to take the fingerprints of a person detained at a police station without the appropriate consent shall be exercisable by any constable.]
- (9) Nothing in this section—
- (a) affects any power conferred by paragraph 18(2) of Schedule 2 to the <sup>M5</sup>Immigration Act 1971; or
  - [<sup>F29</sup>(b) applies to a person arrested or detained under the terrorism provisions.]

#### Textual Amendments

- F20** S. 61(3A) inserted (1.1.2003) by 2001 c. 16, s. 78(3); S.I. 2002/3032, **art. 2(a)**
- F21** Words in s. 61(4)(b) inserted (14.12.2001) by 2001 c. 24, s. **90(2)(a)**
- F22** Words in s. 61(4) inserted (14.12.2001) by 2001 c. 24, s. **90(2)(b)**
- F23** S. 61(4A)(4B) inserted (1.1.2003) by 2001 c. 16, s. 78(4); S.I. 2002/3032, **art. 2(a)**
- F24** Words in s. 61(5) inserted (1.1.2003) by 2001 c. 16, s. 78(5); S.I. 2002/3032, **art. 2(a)**
- F25** S. 61(6)(a)-(c) substituted (1.1.2003) for words in s. 61(6) by 2001 c. 16, s. 78(6); S.I. 2002/3032, **art. 2(a)**
- F26** S. 61(7A) inserted (10.4.1995) by 1994 c. 33, s. 168(2), **Sch. 10 para. 56(a)**; S.I. 1995/721, art. 2, **Sch. Appendix A**
- F27** Words in s. 61(8) inserted (10.4.1995) by 1994 c. 33, s. 168(2), **Sch. 10 para. 56(b)**; S.I. 1995/721, art. 2, **Sch. Appendix A**
- F28** S. 61(8B) inserted (2.12.2002) by Police Reform Act 2002 (c. 30), s. 107, **Sch. 7 para. 9(3)**; S.I. 2002/2750, **art. 2(b)(ii)**
- F29** S. 61(9)(b) substituted (19.2.2001) by 2000 c. 11, s. 125, **Sch. 15 para. 5(7)** (with s. 129(1)); S.I. 2001/421 art. 2

#### Modifications etc. (not altering text)

- C22** S. 61 applied (with modifications) by S.I. 1985/1882, **art. 6**
- C23** S. 61 modified (2.8.1993) by S.I. 1993/1813, art. 6, **Sch. 3 para. 3(2)**; and s. 61 modified by the said S.I. 1993/1813, art. 6, **Sch. 3 para. 3** as incorporated (with modifications) (1.12.1997) by S.I. 1994/1405, art. 6, **Sch. 3 para. 4**  
S. 61(1) applied (1.2.1997) by S.I. 1997/15, art. 2(1), **Sch.**  
S. 61(2)-(7A) applied (with modifications) (1.2.1997) by S.I. 1997/15, art. 2(1), **Sch.**
- C24** S. 61 extended (2.12.2002) by Police Reform Act 2002 (c. 30), s. 38, **Sch. 4 Pt. 3 para. 29(a)**; S.I. 2002/2750, **art. 2(a)(ii)(d)**
- C25** S. 61(1)-(8) modified (E.W.) (temp.) by Prevention of Terrorism (Temporary Provisions) Act 1989 (c. 4, SIF 39:2), ss. 15(10), 16(1)(3)(4), 27(5), **Sch. 5 para. 7(6)**
- C26** S. 61(7A)(a) modified (2.12.2002) by Police Reform Act 2002 (c. 30), s. 38, **Sch. 4 Pt. 3 para. 29(b)**; S.I. 2002/2750, **art. 2(a)(ii)(d)**

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### Marginal Citations

M5 1971 c. 77.

VALID FROM 01/01/2006

### [<sup>F30</sup>61A Impressions of footwear **E+W**

- (1) Except as provided by this section, no impression of a person's footwear may be taken without the appropriate consent.
- (2) Consent to the taking of an impression of a person's footwear must be in writing if it is given at a time when he is at a police station.
- (3) Where a person is detained at a police station, an impression of his footwear may be taken without the appropriate consent if—
  - (a) he is detained in consequence of his arrest for a recordable offence, or has been charged with a recordable offence, or informed that he will be reported for a recordable offence; and
  - (b) he has not had an impression taken of his footwear in the course of the investigation of the offence by the police.
- (4) Where a person mentioned in paragraph (a) of subsection (3) above has already had an impression taken of his footwear in the course of the investigation of the offence by the police, that fact shall be disregarded for the purposes of that subsection if the impression of his footwear taken previously is—
  - (a) incomplete; or
  - (b) is not of sufficient quality to allow satisfactory analysis, comparison or matching (whether in the case in question or generally).
- (5) If an impression of a person's footwear is taken at a police station, whether with or without the appropriate consent—
  - (a) before it is taken, an officer shall inform him that it may be the subject of a speculative search; and
  - (b) the fact that the person has been informed of this possibility shall be recorded as soon as is practicable after the impression has been taken, and if he is detained at a police station, the record shall be made on his custody record.
- (6) In a case where, by virtue of subsection (3) above, an impression of a person's footwear is taken without the appropriate consent—
  - (a) he shall be told the reason before it is taken; and
  - (b) the reason shall be recorded on his custody record as soon as is practicable after the impression is taken.
- (7) The power to take an impression of the footwear of a person detained at a police station without the appropriate consent shall be exercisable by any constable.
- (8) Nothing in this section applies to any person—
  - (a) arrested or detained under the terrorism provisions;
  - (b) arrested under an extradition arrest power.]

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### Textual Amendments

**F30** S. 61A inserted (1.1.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), **ss. 118(2)**, 178; [S.I. 2005/3495](#), **art. 2(1)(p)**

### Modifications etc. (not altering text)

**C27** S. 61A extended (1.1.2006) by [Police Reform Act 2002 \(c. 30\)](#), s. 38, [Sch. 4 para. 33A](#) (as inserted by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 122, 178, **Sch. 8 para. 16**); [S.I. 2005/3495](#), **art. 2(q)(r)**

**C28** S. 61A applied (with modifications) (31.12.2006) by [The Police and Criminal Evidence Act 1984 \(Application to the Armed Forces\) Order 2006 \(S.I. 2006/2015\)](#), arts. 2, 3, **Schs. 1-3**

## 62 Intimate samples. **E+W**

- (1) [<sup>F31</sup>Subject to section 63B below] An intimate sample may be taken from a person in police detention only—
- if a police officer of at least the rank of superintendent authorises it to be taken; and
  - if the appropriate consent is given.

[<sup>F32</sup>(1A) An intimate sample may be taken from a person who is not in police detention but from whom, in the course of the investigation of an offence, two or more non-intimate samples suitable for the same means of analysis have been taken which have proved insufficient—

- if a police officer of at least the rank of superintendent authorises it to be taken; and
- if the appropriate consent is given.]

- (2) An officer may only give an authorisation [<sup>F33</sup>under subsection (1) or (1A) above] if he has reasonable grounds—
- for suspecting the involvement of the person from whom the sample is to be taken in a [<sup>F34</sup>recordable offence]; and
  - for believing that the sample will tend to confirm or disprove his involvement.

(3) An officer may give an authorisation under subsection (1) [<sup>F35</sup>or (1A)] above orally or in writing but, if he gives it orally, he shall confirm it in writing as soon as is practicable.

(4) The appropriate consent must be given in writing.

(5) Where—

- an authorisation has been given; and
- it is proposed that an intimate sample shall be taken in pursuance of the authorisation,

an officer shall inform the person from whom the sample is to be taken—

- of the giving of the authorisation; and
- of the grounds for giving it.

(6) The duty imposed by subsection (5)(ii) above includes a duty to state the nature of the offence in which it is suspected that the person from whom the sample is to be taken has been involved.

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- (7) If an intimate sample is taken from a person—
- (a) the authorisation by virtue of which it was taken;
  - (b) the grounds for giving the authorisation; and
  - (c) the fact that the appropriate consent was given,
- shall be recorded as soon as is practicable after the sample is taken.
- [<sup>F36</sup>(7A) If an intimate sample is taken from a person at a police station—
- (a) before the sample is taken, an officer shall inform him that it may be the subject of a speculative search; and
  - (b) the fact that the person has been informed of this possibility shall be recorded as soon as practicable after the sample has been taken.]
- (8) If an intimate sample is taken from a person detained at a police station, the matters required to be recorded by subsection (7) [<sup>F37</sup>or (7A)] above shall be recorded in his custody record.
- (9) An intimate sample, other than a sample of urine [<sup>F38</sup>or a dental impression], may only be taken from a person by a registered medical practitioner [<sup>F39</sup>and a dental impression may only be taken by a registered dentist]
- (10) Where the appropriate consent to the taking of an intimate sample from person was refused without good cause, in any proceedings against that person for an offence—
- (a) the court, in determining—
    - (i) whether to commit that person for trial; or
    - (ii) whether there is a case to answer; and
  - [<sup>F40</sup>(aa) a judge, in deciding whether to grant an application made by the accused under—
    - (i) section 6 of the Criminal Justice Act 1987 (application for dismissal of charge of serious fraud in respect of which notice of transfer has been given under section 4 of that Act); or
    - (ii) paragraph 5 of Schedule 6 to the Criminal Justice Act 1991 (application for dismissal of charge of violent or sexual offence involving child in respect of which notice of transfer has been given under section 53 of that Act); and]
  - (b) 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 <sup>F41</sup>. . .
- (11) Nothing in this section affects [<sup>F42</sup>sections 4 to 11 of the Road Traffic Act 1988].
- [<sup>F43</sup>(12) Nothing in this section applies to a person arrested or detained under the terrorism provisions; and subsection (1A) shall not apply where the non-intimate samples mentioned in that subsection were taken under paragraph 10 of Schedule 8 to the Terrorism Act 2000.]

#### Textual Amendments

**F31** Words in s. 62 inserted (20.6.2001 for specified purposes and otherwise 2.7.2001) by 2000 c. 43, s. 74, **Sch. 7 para. 78**; S.I. 2001/2232, **art. 2(k)(m)(i)**

**F32** S. 62(1A) inserted (10.4.1995) by 1994 c. 33, s. 54(2); S.I. 1995/721, art. 2, **Sch.**

**F33** Words in s. 62(2) inserted (10.4.1995) by 1994 c. 33, s. 54(3)(a); S.I. 1995/721, art. 2, **Sch.**

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- F34** Words in s. 62(2)(a) substituted (10.4.1995) by 1994 c. 33, s. 54(3)(b); S.I. 1995/721, art. 2, **Sch.**
- F35** Words in s. 62(3) inserted (10.4.1995) by 1994 c. 33, s. 54(4); S.I. 1995/721, art. 2, **Sch.**
- F36** S. 62(7A) inserted (10.4.1995) by 1994 c. 33, s. 168(2), **Sch. 10 para. 57(a)**; S.I. 1995/721, art. 2, **Sch. Appendix A**
- F37** Words in s. 62(8) inserted (10.4.1995) by 1994 c. 33, s. 168(2), **Sch. 10 para. 57(b)**; S.I. 1995/721, art. 2, **Sch. Appendix A**
- F38** Words in s. 62(9) substituted (10.4.1995) by 1994 c. 33, s. 54(5)(a); S.I. 1995/721, art. 2, **Sch.**
- F39** Words inserted at the end of s. 62(9) (10.4.1995) by 1994 c. 33, s. 54(5)(b); S.I. 1995/721, art. 2, **Sch.**
- F40** S. 62(10)(aa) inserted (3.2.1995) by 1994 c. 33, s. 168(3), **Sch. 9 para. 24**; S.I. 1995/127, art. 2(1), **Sch. Appendix A**
- F41** Words in s. 62(10) repealed (10.4.1995) by 1994 c. 33, s. 168(3), **Sch. 11**; S.I. 1995/721, art. 2, **Sch. Appendix B**
- F42** Words substituted by Road Traffic (Consequential Provisions) Act 1988 (c. 54, SIF 107:1), s. 4, **Sch. 3 para. 27(4)**
- F43** S. 62(12) substituted (19.2.2001) by 2000 c. 11, s. 125, **Sch. 15 para. 8** (with s. 129(1)); S.I. 2001/421, **art. 2**

#### Modifications etc. (not altering text)

- C29** S. 62 applied with modifications by S.I. 1985/1800, arts. 3–11, Schs. 1, 2 and 1985/1882, art. 7  
S. 62(1)-(11) applied (with modifications) (10.4.1995) by 1989 c. 4, **Sch. 5 para. 7(6A)-(6D)** (as inserted by 1994 c. 33, s. 168(2), **Sch. 10 para. 62(3)**); S.I. 1995/721, art. 2, **Sch. Appendix A**  
S. 62(1)-(11) applied (with modifications) (10.4.1995) by 1989 c. 4, s. 15(11)-(14) (as inserted by 1994 c. 33, s. 168(2), **Sch. 10 para. 62(2)**); S.I. 1995/721, art. 2, **Sch. Appendix A**  
S. 62(1)-(3)(5)-(7)(7A)(9)(10) applied (with modifications) (1.2.1997) by S.I. 1997/15, art. 2(1), **Sch.**  
S. 62(4)(6) applied (1.2.1997) by S.I. 1997/15, art. 2(1), **Sch.**
- C30** S. 62 modified (2.8.1993) by S.I. 1993/1813, art. 6, **Sch. 3 para. 3(2)(3)**; s. 62 modified by the said S.I. 1993/1813, art. 6, **Sch. 3 para. 3** as incorporated (with modifications) (1.12.1997) by S.I. 1994/1405, art. 6, **Sch. 3 para. 4**
- C31** S. 62(7A)(a) modified (2.12.2002) by Police Reform Act 2002 (c. 30), s. 38, **Sch. 4 Pt. 3 para. 30**; S.I. 2002/2750, **art. 2(a)(ii)(d)**

#### 63 Other samples. **E+W**

- (1) Except as provided by this section, a non-intimate sample may not be taken from a person without the appropriate consent.
- (2) Consent to the taking of a non-intimate sample must be given in writing.
- (3) A non-intimate sample may be taken from a person without the appropriate consent if—
  - (a) he is in police detention or is being held in custody by the police on the authority of a court; and
  - (b) an officer of at least the rank of superintendent authorises it to be taken without the appropriate consent.

<sup>F44</sup>(3A) A non-intimate sample may be taken from a person (whether or not he falls within subsection (3)(a) above) without the appropriate consent if—

- (a) he has been charged with a recordable offence or informed that he will be reported for such an offence; and
- (b) either he has not had a non-intimate sample taken from him in the course of the investigation of the offence by the police or he has had a non-intimate

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sample taken from him but either it was not suitable for the same means of analysis or, though so suitable, the sample proved insufficient.

- (3B) A non-intimate sample may be taken from a person without the appropriate consent if he has been convicted of a recordable offence.]
- [<sup>F45</sup>(3C) A non-intimate sample may also be taken from a person without the appropriate consent if he is a person to whom section 2 of the Criminal Evidence (Amendment) Act 1997 applies (persons detained following acquittal on grounds of insanity or finding of unfitness to plead).]
- (4) An officer may only give an authorisation under subsection (3) above if he has reasonable grounds—
- (a) for suspecting the involvement of the person from whom the sample is to be taken in a [<sup>F46</sup>recordable offence]; and
  - (b) for believing that the sample will tend to confirm or disprove his involvement.
- (5) An officer may give an authorisation under subsection (3) above orally or in writing but, if he gives it orally, he shall confirm it in writing as soon as is practicable.
- [<sup>F47</sup>(5A) An officer shall not give an authorisation under subsection (3) above for the taking from any person of a non-intimate sample consisting of a skin impression if—
- (a) a skin impression of the same part of the body has already been taken from that person in the course of the investigation of the offence; and
  - (b) the impression previously taken is not one that has proved insufficient.]

(6) Where—

    - (a) an authorisation has been given; and
    - (b) it is proposed that a non-intimate sample shall be taken in pursuance of the authorisation,

an officer shall inform the person from whom the sample is to be taken—

    - (i) of the giving of the authorisation; and
    - (ii) of the grounds for giving it.

(7) The duty imposed by subsection 6(ii) above includes a duty to state the nature of the offence in which it is suspected that the person from whom the sample is to be taken has been involved.

(8) If a non-intimate sample is taken from a person by virtue of subsection (3) above—

    - (a) the authorisation by virtue of which it was taken; and
    - (b) the grounds for giving the authorisation,

shall be recorded as soon as is practicable after the sample is taken.

[<sup>F48</sup>(8A) In a case where by virtue of subsection (3A) [<sup>F49</sup>, (3B) or (3C) above] a sample is taken from a person without the appropriate consent—

    - (a) he shall be told the reason before the sample is taken; and
    - (b) the reason shall be recorded as soon as practicable after the sample is taken.]

[<sup>F50</sup>(8B) If a non-intimate sample is taken from a person at a police station, whether with or without the appropriate consent—

      - (a) before the sample is taken, an officer shall inform him that it may be the subject of a speculative search; and



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- (b) the fact that the person has been informed of this possibility shall be recorded as soon as practicable after the sample has been taken.]
- (9) If a non-intimate sample is taken from a person detained at a police station, the matters required to be recorded by subsection (8) [<sup>F51</sup>or (8A)] [<sup>F52</sup>or (8B)] above shall be recorded in his custody record.
- [<sup>F53</sup>(9ZA) The power to take a non-intimate sample from a person without the appropriate consent shall be exercisable by any constable.
- [ Subsection (3B) above shall not apply to any person convicted before 10th April 1995  
<sup>F54</sup>[ unless he is a person to whom section 1 of the Criminal Evidence (Amendment) Act  
<sup>F55</sup>(9A) 1997 applies (persons imprisoned or detained by virtue of pre-existing conviction for sexual offence etc.).]]
- [ Nothing in this section applies to a person arrested or detained under the terrorism  
<sup>F56</sup>(10) provisions.]]

#### Textual Amendments

- F44** S. 63(3A)(3B) inserted (10.4.1995) by 1994 c. 33, s. 55(2); S.I. 1995/721, art. 2, Sch.
- F45** S. 63(3C) inserted (19.3.1997) by 1997 c. 17, s. 2(1)(2)(a)(3)-(7)
- F46** Words in s. 63(4)(a) substituted (10.4.1995) by 1994 c. 33, s. 55(3); S.I. 1995/721, art. 2, Sch.
- F47** S. 63(5A) inserted (1.1.2003) by 2001 c. 16, s. 80(3); S.I. 2002/3032, art. 2(b)
- F48** S. 63(8A) inserted (10.4.1995) by 1994 c. 33, s. 55(4); S.I. 1995/721, art. 2, Sch.
- F49** Words in s. 63(8A) substituted (19.3.1997) by 1997 c. 17, s. 2(1)(2)(b)(3)-(7)
- F50** S. 63(8B) inserted (10.4.1995) by 1994 c. 33, s. 168(2), Sch. 10 para. 58(a); S.I. 1995/721, art. 2, Sch. Appendix A
- F51** Words in s. 63(9) inserted (10.4.1995) by 1994 c. 33, s. 55(5); S.I. 1995/721, art. 2, Sch.
- F52** Words in s. 63(9) inserted (10.4.1995) by 1994 c. 33, s. 168(2), Sch. 10 para. 58(b); S.I. 1995/721, art. 2, Sch. Appendix A
- F53** S. 63(9ZA) inserted (2.12.2002) by Police Reform Act 2002 (c. 30), s. 107, Sch. 7 para. 9(4); S.I. 2002/2750, art. 2(b)(ii)
- F54** S. 63(10) beginning "Subsection (3B) above" inserted (10.4.1995) by 1994 c. 33, s. 55(6); S.I. 1995/721, art. 2, Sch.
- F55** S. 63(9A) substituted for the subsection (10) inserted in s. 63 by 1994 c. 33, s. 55(6) (19.3.1997) by 1997 c. 17, s. 1(1)(a)(2)(3)(6)
- F56** S. 63(10) substituted (19.2.2001) by 2000 c. 11, s. 125, Sch. 15 para. 5(9) (with s. 129(1)); S.I. 2001/421, art. 2

#### Modifications etc. (not altering text)

- C32** S. 63 applied with modifications by S.I. 1985/1800, arts. 3–11, Schs. 1, 2 and 1985/1882, art. 8  
S. 63(1)-(9) applied (with modifications) (10.4.1995) by 1989 c. 4, s. 15(11)-(14) (as inserted by 1994 c. 33, s. 168(2), Sch. 10 para. 62(2); S.I. 1995/721, art. 2, Sch. Appendix A)  
S. 63(1)-(9) applied (with modifications) (10.4.1995) by 1989 c. 4, Sch. 5 para. 7(6A)-(6D) (as inserted by 1994 c. 33, s. 168(2), Sch. 10 para. 62(3); S.I. 1995/721, art. 2, Sch. Appendix A)  
S. 63(1)(2)(7) applied (1.2.1997) by S.I. 1997/15, art. 2(1), Sch.  
S. 63(3)-(6)(8)-(8B) applied (with modifications) (1.2.1997) by S.I. 1997/15, art. 2(1), Sch.
- C33** S. 63 modified (2.8.1993) by S.I. 1993/1813, art. 6, Sch. 3 para. 3(2)(3); s. 63 modified by the said S.I. 1993/1813, art. 6, Sch. 3 para. 3 as incorporated (with modifications) (1.12.1997) by S.I. 1994/1405, art. 6, Sch. 3 para. 4
- C34** S. 63 extended (2.12.2002) Police Reform Act 2002 (c. 30), s. 38, Sch. 4 Pt. 3 para. 31(a); S.I. 2002/2750, art. 2(a)(ii)(d)
- C35** S. 63(3B) modified (19.3.1997) by 1997 c. 17, s. 1(1)(3)-(6)

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- C36** S. 63(6) modified (2.12.2002) [Police Reform Act 2002 \(c. 30\), s. 38, Sch. 4 Pt. 3 para. 31\(b\)](#); S.I. 2002/2750, [art. 2\(a\)\(ii\)\(d\)](#)
- C37** S. 63(8B)(a) modified (2.12.2002) by [Police Reform Act 2002 \(c. 30\), s. 38, Sch. 4 Pt. 3 para. 31\(c\)](#); S.I. 2002/2750, [art. 2\(a\)\(ii\)\(d\)](#)

**[<sup>F57</sup>63A Fingerprints and samples: supplementary provisions. E+W**

[ Where a person has been arrested on suspicion of being involved in a recordable <sup>F58</sup>(1) offence or has been charged with such an offence or has been informed that he will be reported for such an offence, fingerprints or samples or the information derived from samples taken under any power conferred by this Part of this Act from the person may be checked against—

- (a) other fingerprints or samples to which the person seeking to check has access and which are held by or on behalf of [<sup>F59</sup>any one or more relevant law-enforcement authorities or which]] are held in connection with or as a result of an investigation of an offence;
- (b) information derived from other samples if the information is contained in records to which the person seeking to check has access and which are held as mentioned in paragraph (a) above.

[ In subsection (1) above “relevant law-enforcement authority” means—

- <sup>F60</sup>(1A)
- (a) a police force;
  - (b) the National Criminal Intelligence Service;
  - (c) the National Crime Squad;
  - (d) a public authority (not falling within paragraphs (a) to (c)) with functions in any part of the British Islands which consist of or include the investigation of crimes or the charging of offenders;
  - (e) any person with functions in any country or territory outside the United Kingdom which—
    - (i) correspond to those of a police force; or
    - (ii) otherwise consist of or include the investigation of conduct contrary to the law of that country or territory, or the apprehension of persons guilty of such conduct;
  - (f) any person with functions under any international agreement which consist of or include the investigation of conduct which is—
    - (i) unlawful under the law of one or more places,
    - (ii) prohibited by such an agreement, or
    - (iii) contrary to international law,
 or the apprehension of persons guilty of such conduct.

<sup>F60</sup>(1B) The reference in subsection (1A) above to a police force is a reference to any of the following—

- (a) any police force maintained under section 2 of the Police Act 1996 (c. 16) (police forces in England and Wales outside London);
- (b) the metropolitan police force;
- (c) the City of London police force;
- (d) any police force maintained under or by virtue of section 1 of the Police (Scotland) Act 1967 (c. 77);
- (e) the Police Service of Northern Ireland;

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- (f) the Police Service of Northern Ireland Reserve;
- (g) the Ministry of Defence Police;
- (h) the Royal Navy Regulating Branch;
- (i) the Royal Military Police;
- (j) the Royal Air Force Police;
- (k) the Royal Marines Police;
- (l) the British Transport Police;
- (m) the States of Jersey Police Force;
- (n) the salaried police force of the Island of Guernsey;
- (o) the Isle of Man Constabulary.

<sup>F60</sup>(1C) Where—

- (a) fingerprints or samples have been taken from any person in connection with the investigation of an offence but otherwise than in circumstances to which subsection (1) above applies, and
  - (b) that person has given his consent in writing to the use in a speculative search of the fingerprints or of the samples and of information derived from them,
- the fingerprints or, as the case may be, those samples and that information may be checked against any of the fingerprints, samples or information mentioned in paragraph (a) or (b) of that subsection.

<sup>F60</sup>(1D) A consent given for the purposes of subsection (1C) above shall not be capable of being withdrawn.]]

- (2) Where a sample of hair other than pubic hair is to be taken the sample may be taken either by cutting hairs or by plucking hairs with their roots so long as no more are plucked than the person taking the sample reasonably considers to be necessary for a sufficient sample.
- (3) Where any power to take a sample is exercisable in relation to a person the sample may be taken in a prison or other institution to which the <sup>M6</sup>Prison Act 1952 applies.

[<sup>F61</sup>(3A) Where—

- (a) the power to take a non-intimate sample under section 63(3B) above is exercisable in relation to any person who is detained under Part III of the <sup>M7</sup>Mental Health Act 1983 in pursuance of—
  - (i) a hospital order or interim hospital order made following his conviction for the recordable offence in question, or
  - (ii) a transfer direction given at a time when he was detained in pursuance of any sentence or order imposed following that conviction, or
- (b) the power to take a non-intimate sample under section 63(3C) above is exercisable in relation to any person,

the sample may be taken in the hospital in which he is detained under that Part of that Act.

Expressions used in this subsection and in the <sup>M8</sup>Mental Health Act 1983 have the same meaning as in that Act.

- (3B) Where the power to take a non-intimate sample under section 63(3B) above is exercisable in relation to a person detained in pursuance of directions of the Secretary of State under [<sup>F62</sup>section 92 of the Powers of Criminal Courts (Sentencing) Act 2000] the sample may be taken at the place where he is so detained.]

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- (4) Any constable may, within the allowed period, require a person who is neither in police detention nor held in custody by the police on the authority of a court to attend a police station in order to have a sample taken where—
- (a) the person has been charged with a recordable offence or informed that he will be reported for such an offence and either he has not had a sample taken from him in the course of the investigation of the offence by the police or he has had a sample so taken from him but either it was not suitable for the same means of analysis or, though so suitable, the sample proved insufficient; or
  - (b) the person has been convicted of a recordable offence and either he has not had a sample taken from him since the conviction or he has had a sample taken from him (before or after his conviction) but either it was not suitable for the same means of analysis or, though so suitable, the sample proved insufficient.
- (5) The period allowed for requiring a person to attend a police station for the purpose specified in subsection (4) above is—
- (a) in the case of a person falling within paragraph (a), one month beginning with the date of the charge [<sup>F63</sup>or of his being informed as mentioned in that paragraph] or one month beginning with the date on which the appropriate officer is informed of the fact that the sample is not suitable for the same means of analysis or has proved insufficient, as the case may be;
  - (b) in the case of a person falling within paragraph (b), one month beginning with the date of the conviction or one month beginning with the date on which the appropriate officer is informed of the fact that the sample is not suitable for the same means of analysis or has proved insufficient, as the case may be.
- (6) A requirement under subsection (4) above—
- (a) shall give the person at least 7 days within which he must so attend; and
  - (b) may direct him to attend at a specified time of day or between specified times of day.
- (7) Any constable may arrest without a warrant a person who has failed to comply with a requirement under subsection (4) above.
- (8) In this section “the appropriate officer” is—
- (a) in the case of a person falling within subsection (4)(a), the officer investigating the offence with which that person has been charged or as to which he was informed that he would be reported;
  - (b) in the case of a person falling within subsection (4)(b), the officer in charge of the police station from which the investigation of the offence of which he was convicted was conducted.

#### Textual Amendments

**F57** S. 63A inserted (10.4.1995) by 1994 c. 33, s. 56; S.I. 1995/721, art. 2, Sch.

**F58** S. 63A(1)(1A) substituted for s. 63A(1) (5.7.1996) by 1996 c. 25, s. 64 (with s. 78(1))

**F59** Words in s. 63A(1)(a) substituted (11.5.2001) by 2001 c. 16, s. 81(1)

**F60** S. 63A(1A)-(1D) substituted (11.5.2001) for s. 63A(1A) by 2001 c. 16, s. 81(2)

**F61** S. 63A(3A)(3B) inserted (19.3.1997) by 1997 c. 17, s. 3

**F62** Words in s. 63A(3B) substituted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), Sch. 9 para. 97

**F63** Words in s. 63A(5)(a) inserted (19.3.1997) by 1997 c. 17, s. 4

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#### Modifications etc. (not altering text)

- C38** S. 63A(1) restricted (1.9.2001) by 2001 c. 17, s. 34(1), **Sch. 4 para. 7(3)**; S.I. 2001/2161, **art. 2** (subject to **art. 3**)
- C39** S. 63A(1) applied (with modifications) (1.2.1997) by S.I. 1997/15, **art. 2(1)**, **Sch.** S. 63A(2) applied (1.2.1997) by S.I. 1997/15, **art. 2(1)**, **Sch.**
- C40** S. 63A(4) extended (2.12.2002) by Police Reform Act 2002 (c. 30), s. 38, **Sch. 4 Pt. 3 para. 32**; S.I. 2002/2750, **art. 2(a)(ii)(d)**

#### Marginal Citations

- M6** 1952 c. 52.  
**M7** 1983 c. 20.  
**M8** 1983 c. 20.

### [<sup>F64</sup> **63B** Testing for presence of Class A drugs. **E+W**

- (1) A sample of urine or a non-intimate sample may be taken from a person in police detention for the purpose of ascertaining whether he has any specified Class A drug in his body if the following conditions are met.
- (2) The first condition is—
  - (a) that the person concerned has been charged with a trigger offence; or
  - (b) that the person concerned has been charged with an offence and a police officer of at least the rank of inspector, who has reasonable grounds for suspecting that the misuse by that person of any specified Class A drug caused or contributed to the offence, has authorised the sample to be taken.
- (3) The second condition is that the person concerned has attained the age of 18.
- (4) The third condition is that a police officer has requested the person concerned to give the sample.
- (5) Before requesting the person concerned to give a sample, an officer must—
  - (a) warn him that if, when so requested, he fails without good cause to do so he may be liable to prosecution, and
  - (b) in a case within subsection (2)(b) above, inform him of the giving of the authorisation and of the grounds in question.
- (6) A sample may be taken under this section only by a person prescribed by regulations made by the Secretary of State by statutory instrument.

No regulations shall be made under this subsection unless a draft has been laid before, and approved by resolution of, each House of Parliament.

- (7) Information obtained from a sample taken under this section may be disclosed—
  - (a) for the purpose of informing any decision about granting bail in criminal proceedings (within the meaning of the <sup>M9</sup>Bail Act 1976) to the person concerned;
  - (b) where the person concerned is in police detention or is remanded in or committed to custody by an order of a court or has been granted such bail, for the purpose of informing any decision about his supervision;
  - (c) where the person concerned is convicted of an offence, for the purpose of informing any decision about the appropriate sentence to be passed by a court and any decision about his supervision or release;

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- (d) for the purpose of ensuring that appropriate advice and treatment is made available to the person concerned.
- (8) A person who fails without good cause to give any sample which may be taken from him under this section shall be guilty of an offence.]

#### Textual Amendments

**F64** S. 63B inserted (for certain purposes on 20.6.2001, 2.7.2001, 20.5.2002, 2.9.2002, 1.4.2003, 1.4.2004 and otherwise prosp.) by 2000 c. 43, ss. 57(2), 80(1); S.I. 2001/2232, art. 2(f); S.I. 2002/1149, **art. 2**; S.I. 2002/1862, **art. 2**; S.I. 2003/709, **art. 2**; S.I. 2004/780, **art. 2**

#### Modifications etc. (not altering text)

**C41** S. 63B(2): power to amend conferred (for certain purposes on 20.6.2001, 2.7.2001, 20.5.2002, 2.9.2002, 1.4.2003, 1.4.2004 and otherwise prosp.) by 2000 c. 43, ss. 57(4), 80(1); S.I. 2001/2232, art. 2(f); S.I. 2002/1149, **art. 2**; S.I. 2002/1862, **art. 2**; S.I. 2003/709, **art. 2**; S.I. 2004/780, **art. 2**

#### Marginal Citations

**M9** 1976 c. 63.

### <sup>F65</sup> 63C Testing for presence of Class A drugs: supplementary. **E+W**

- (1) A person guilty of an offence under section 63B above shall be liable on summary conviction to imprisonment for a term not exceeding three months, or to a fine not exceeding level 4 on the standard scale, or to both.
- (2) A police officer may give an authorisation under section 63B above orally or in writing but, if he gives it orally, he shall confirm it in writing as soon as is practicable.
- (3) If a sample is taken under section 63B above by virtue of an authorisation, the authorisation and the grounds for the suspicion shall be recorded as soon as is practicable after the sample is taken.
- (4) If the sample is taken from a person detained at a police station, the matters required to be recorded by subsection (3) above shall be recorded in his custody record.
- (5) Subsections (11) and (12) of section 62 above apply for the purposes of section 63B above as they do for the purposes of that section; and section 63B above does not prejudice the generality of sections 62 and 63 above.
- (6) In section 63B above—

“Class A drug” and “misuse” have the same meanings as in the <sup>M10</sup>Misuse of Drugs Act 1971;

“specified” (in relation to a Class A drug) and “trigger offence” have the same meanings as in Part III of the Criminal Justice and Court Services Act 2000.

#### Textual Amendments

**F65** S. 63C inserted (for certain purposes on 20.6.2001, 2.7.2001, 20.5.2002, 2.9.2002, 1.4.2003, 1.4.2004, 1.4.2005 and otherwise 1.12.2005) by 2000 c. 43, ss. 57(3)(a), 80(1); S.I. 2001/2232, art. 2(f); S.I. 2002/1149, **art. 2**; S.I. 2002/1862, **art. 2**; S.I. 2003/709, **art. 2**; S.I. 2004/780, **art. 2**; S.I. 2005/596, **art. 2**; S.I. 2005/3054, **art. 2**



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#### Marginal Citations

M10 1971 c. 38.

### 64 Destruction of fingerprints and samples. **E+W**

[<sup>F66</sup>(1A) Where—

- (a) fingerprints or samples are taken from a person in connection with the investigation of an offence, and
- (b) subsection (3) below does not require them to be destroyed,

the fingerprints or samples may be retained after they have fulfilled the purposes for which they were taken but shall not be used by any person except for purposes related to the prevention or detection of crime, the investigation of an offence or the conduct of a prosecution.

(1B) In subsection (1A) above—

- (a) the reference to using a fingerprint includes a reference to allowing any check to be made against it under section 63A(1) or (1C) above and to disclosing it to any person;
- (b) the reference to using a sample includes a reference to allowing any check to be made under section 63A(1) or (1C) above against it or against information derived from it and to disclosing it or any such information to any person;
- (c) the reference to crime includes a reference to any conduct which—
  - (i) constitutes one or more criminal offences (whether under the law of a part of the United Kingdom or of a country or territory outside the United Kingdom); or
  - (ii) is, or corresponds to, any conduct which, if it all took place in any one part of the United Kingdom, would constitute one or more criminal offences;

and

- (d) the references to an investigation and to a prosecution include references, respectively, to any investigation outside the United Kingdom of any crime or suspected crime and to a prosecution brought in respect of any crime in a country or territory outside the United Kingdom.]

(3) If—

- (a) fingerprints or samples are taken from a person in connection with the investigation of an offence; and
  - (b) that person is not suspected of having committed the offence,
- they must [<sup>F67</sup>, except as provided in [<sup>F68</sup>the following provisions of this section],] be destroyed as soon as they have fulfilled the purpose for which they were taken.

[<sup>F69</sup>(3AA) Samples and fingerprints are not required to be destroyed under subsection (3) above if—

- (a) they were taken for the purposes of the investigation of an offence of which a person has been convicted; and
- (b) a sample or, as the case may be, fingerprint was also taken from the convicted person for the purposes of that investigation.

<sup>F69</sup>(3AB) Subject to subsection (3AC) below, where a person is entitled under subsection (3) above to the destruction of any fingerprint or sample taken from him (or would be



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but for subsection (3AA) above), neither the fingerprint nor the sample, nor any information derived from the sample, shall be used—

- (a) in evidence against the person who is or would be entitled to the destruction of that fingerprint or sample; or
- (b) for the purposes of the investigation of any offence;

and subsection (1B) above applies for the purposes of this subsection as it applies for the purposes of subsection (1A) above.

<sup>F69</sup>(3AC) Where a person from whom a fingerprint or sample has been taken consents in writing to its retention—

- (a) that sample need not be destroyed under subsection (3) above;
- (b) subsection (3AB) above shall not restrict the use that may be made of the fingerprint or sample or, in the case of a sample, of any information derived from it; and
- (c) that consent shall be treated as comprising a consent for the purposes of section 63A(1C) above;

and a consent given for the purpose of this subsection shall not be capable of being withdrawn.

<sup>F69</sup>(3AD) For the purposes of subsection (3AC) above it shall be immaterial whether the consent is given at, before or after the time when the entitlement to the destruction of the fingerprint or sample arises.]

[<sup>F70</sup>(4) . . . . .]

[<sup>F71</sup>(5) If fingerprints are destroyed—

- (a) any copies of the fingerprints shall also be destroyed; and
- (b) any chief officer of police controlling access to computer data relating to the fingerprints shall make access to the data impossible, as soon as it is practicable to do so.]

(6) A person who asks to be allowed to witness the destruction of his fingerprints or copies of them shall have a right to witness it.

[<sup>F72</sup>(6A) If—

- (a) subsection (5)(b) above falls to be complied with; and
- (b) the person to whose fingerprints the data relate asks for a certificate that it has been complied with,

such a certificate shall be issued to him, not later than the end of the period of three months beginning with the day on which he asks for it, by the responsible chief officer of police or a person authorised by him or on his behalf for the purposes of this section.

(6B) In this section—<sup>F73</sup> . . . . . “the responsible chief officer of police” means the chief officer of police in whose [<sup>F74</sup>police] area the computer data were put on to the computer.]

(7) Nothing in this section—

- (a) affects any power conferred by paragraph 18(2) of Schedule 2 to the <sup>M11</sup>Immigration Act 1971 [<sup>F75</sup>or section 20 of the Immigration and Asylum Act 1999 (c. 33) (disclosure of police information to the Secretary of State for use for immigration purposes)]; or
- (b) applies to a person arrested or detained under the terrorism provisions.

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### Textual Amendments

- F66** S. 64(1A)(1B) substituted (11.5.2001) for s. 64(1)(2) by 2001 c. 16, s. 82(1)(2)(6)
- F67** Words in s. 64(1)(2)(3) inserted (10.4.1995) by 1994 c. 33, s. 57(2); S.I. 1995/721, art. 2, Sch.
- F68** Words in s. 64(3) substituted (11.5.2001) by 2001 c. 16, s. 82(1)(3)(6)
- F69** S. 64(3AA)-(3AD) substituted (11.5.2001) for s. 64(3A)(3B) by 2001 c. 16, s. 82(1)(4)(6)
- F70** S. 64(4) repealed (19.6.2001) by 2001 c. 16, s. 137, Sch. 7 Pt. 2(1); S.I. 2001/2223, art. 2(1)(g)(i)
- F71** S. 64(5) substituted by Criminal Justice Act 1988 (c. 33, SIF 39:1), s. 148(1)
- F72** S. 64(6A)(6B) inserted by Criminal Justice Act 1988 (c. 33, SIF, 39:1), s. 148(2)
- F73** Definition of “chief officer of police” and the word “and” immediately after it in s. 64(6B) repealed (22.8.1996) by 1996 c. 16, ss. 103(1)(3), 104(1), Sch. 7 Pt. II para. 37(a), Sch. 9 Pt. I
- F74** Word “police” in definition of “the responsible chief officer of police” inserted (22.8.1996) by 1996 c. 16, ss. 103(1), 104(1), Sch. 7 para. 37(b)
- F75** Words in s. 64(7)(a) inserted (11.5.2001) by 2001 c. 16, s. 82(1)(5)(6)

### Modifications etc. (not altering text)

- C42** S. 64 applied (with modifications) by S.I. 1985/1882, art. 9
- C43** S. 64 applied (1.9.2001) by 2001 c. 17, s. 34(1), Sch. 4 para. 8; S.I. 2001/2161, art. 2 (subject to art. 3)
- C44** Ss. 8, 9, 15, 16, 17(1)(b)(2) (4), 18–20, 21, 22(1)–(4), 28, 29, 30(1)–(4)(a)(5)–(11), 31, 32(1)–(9), 34(1)–(5), 35, 36, 37, 39, 40–44, 50, 51(d), 52, 54, 55, 64(1)–(4)(5)(6), Sch. 1 applied with modifications by S.I. 1985/1800, arts. 3–11, Schs. 1, 2
- C45** S. 64(1)–(6) modified (2.8.1993) by S.I. 1993/1813, art. 6, Sch. 3 para. 3(3).  
S. 64(1)(3)–(6B) applied (1.2.1997) by S.I. 1997/15, art. 2(1), Sch.  
S. 64(2) applied (with modifications) (1.2.1997) by S.I. 1997/15, art. 2(1), Sch.

### Marginal Citations

- M11** 1971 c. 77.

PROSPECTIVE

### [<sup>F76</sup>64ZA] Destruction of samples **E+W**

- (1) A DNA sample to which section 64 applies must be destroyed—
  - (a) as soon as a DNA profile has been derived from the sample, or
  - (b) if sooner, before the end of the period of 6 months beginning with the date on which the sample was taken.
- (2) Any other sample to which section 64 applies must be destroyed before the end of the period of 6 months beginning with the date on which it was taken.

### Textual Amendments

- F76** Ss. 64ZA–64ZN inserted (prosp.) by Crime and Security Act 2010 (c. 17), ss. 14(2), 59

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PROSPECTIVE

### **64ZB Destruction of data given voluntarily** E+W

- (1) This section applies to—
  - (a) fingerprints or impressions of footwear taken in connection with the investigation of an offence with the consent of the person from whom they were taken, and
  - (b) a DNA profile derived from a DNA sample taken in connection with the investigation of an offence with the consent of the person from whom the sample was taken.
- (2) Material to which this section applies must be destroyed as soon as it has fulfilled the purpose for which it was taken or derived, unless it is—
  - (a) material relating to a person who is convicted of the offence,
  - (b) material relating to a person who has previously been convicted of a recordable offence, other than a person who has only one exempt conviction,
  - (c) material in relation to which any of sections 64ZC to 64ZH applies, or
  - (d) material which is not required to be destroyed by virtue of consent given under section 64ZL.
- (3) If material to which this section applies leads to the person to whom the material relates being arrested for or charged with an offence other than the offence under investigation—
  - (a) the material is not required to be destroyed by virtue of this section, and
  - (b) sections 64ZD to 64ZH have effect in relation to the material as if the material was taken (or, in the case of a DNA profile, was derived from material taken) in connection with the investigation of the offence in respect of which the person is arrested or charged.

#### **Textual Amendments**

**F76** Ss. 64ZA-64ZN inserted (prosp.) by [Crime and Security Act 2010 \(c. 17\)](#), **ss. 14(2), 59**

PROSPECTIVE

### **64ZC Destruction of data relating to a person subject to a control order** E+W

- (1) This section applies to material falling within subsection (2) relating to a person who—
  - (a) has no previous convictions or only one exempt conviction, and
  - (b) is subject to a control order.
- (2) Material falls within this subsection if it is—
  - (a) fingerprints taken from the person, or
  - (b) a DNA profile derived from a DNA sample taken from the person.
- (3) The material must be destroyed before the end of the period of 2 years beginning with the date on which the person ceases to be subject to a control order.

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- (4) This section ceases to have effect in relation to the material if the person is convicted—
- (a) in England and Wales or Northern Ireland of a recordable offence, or
  - (b) in Scotland of an offence which is punishable by imprisonment,
- before the material is required to be destroyed by virtue of this section.
- (5) For the purposes of subsection (1)—
- (a) a person has no previous convictions if the person has not previously been convicted—
    - (i) in England and Wales or Northern Ireland of a recordable offence, or
    - (ii) in Scotland of an offence which is punishable by imprisonment, and
  - (b) if the person has been previously convicted of a recordable offence in England and Wales or Northern Ireland, the conviction is exempt if it is in respect of a recordable offence other than a qualifying offence, committed when the person is aged under 18.
- (6) For the purposes of that subsection—
- (a) a person is to be treated as having been convicted of an offence if—
    - (i) he has been given a caution in England and Wales or Northern Ireland in respect of the offence which, at the time of the caution, he has admitted, [<sup>F77</sup> and ]
    - <sup>F78</sup>(ii) .....
  - (b) if a person is convicted of more than one offence arising out of a single course of action, those convictions are to be treated as a single conviction.
- (7) In this section—
- (a) “recordable offence” has, in relation to a conviction in Northern Ireland, the meaning given by Article 2(2) of the Police and Criminal Evidence (Northern Ireland) Order 1989, and
  - (b) “qualifying offence” has, in relation to a conviction in respect of a recordable offence committed in Northern Ireland, the meaning given by Article 53A of that Order.

#### Textual Amendments

**F76** Ss. 64ZA–64ZN inserted (prosp.) by [Crime and Security Act 2010 \(c. 17\)](#), [ss. 14\(2\)](#), 59

**F77** Word in s. 64ZC(6)(a)(i) substituted (8.4.2013) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [s. 151\(1\)](#), [Sch. 24 para. 9\(a\)](#) (with [s. 135\(4\)](#)); S.I. 2013/453, [art. 4\(f\)](#)

**F78** S. 64ZC(6)(a)(ii) omitted (8.4.2013) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [s. 151\(1\)](#), [Sch. 24 para. 9\(b\)](#) (with [s. 135\(4\)](#)); S.I. 2013/453, [art. 4\(f\)](#)

PROSPECTIVE

#### **64ZD Destruction of data relating to persons not convicted** E+W

- (1) This section applies to material falling within subsection (2) relating to a person who—
- (a) has no previous convictions or only one exempt conviction,
  - (b) is arrested for or charged with a recordable offence, and
  - (c) is aged 18 or over at the time of the alleged offence.

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- (2) Material falls within this subsection if it is—
  - (a) fingerprints or impressions of footwear taken from the person in connection with the investigation of the offence, or
  - (b) a DNA profile derived from a DNA sample so taken.
- (3) The material must be destroyed—
  - (a) in the case of fingerprints or impressions of footwear, before the end of the period of 6 years beginning with the date on which the fingerprints or impressions were taken,
  - (b) in the case of a DNA profile, before the end of the period of 6 years beginning with the date on which the DNA sample from which the profile was derived was taken (or, if the profile was derived from more than one DNA sample, the date on which the first of those samples was taken).
- (4) But if, before the material is required to be destroyed by virtue of this section, the person is arrested for or charged with a recordable offence the material may be further retained until the end of the period of 6 years beginning with the date of the arrest or charge.
- (5) This section ceases to have effect in relation to the material if the person is convicted of a recordable offence before the material is required to be destroyed by virtue of this section.

#### Textual Amendments

**F76** Ss. 64ZA-64ZN inserted (prosp.) by [Crime and Security Act 2010 \(c. 17\)](#), ss. **14(2)**, 59

PROSPECTIVE

#### **64ZE Destruction of data relating to persons under 18 not convicted: recordable offences other than qualifying offences** **E+W**

- (1) This section applies to material falling within subsection (2) relating to a person who—
  - (a) has no previous convictions or only one exempt conviction,
  - (b) is arrested for or charged with a recordable offence other than a qualifying offence, and
  - (c) is aged under 18 at the time of the alleged offence.
- (2) Material falls within this subsection if it is—
  - (a) fingerprints or impressions of footwear taken from the person in connection with the investigation of the offence, or
  - (b) a DNA profile derived from a DNA sample so taken.
- (3) The material must be destroyed—
  - (a) in the case of fingerprints or impressions of footwear, before the end of the period of 3 years beginning with the date on which the fingerprints or impressions were taken,
  - (b) in the case of a DNA profile, before the end of the period of 3 years beginning with the date on which the DNA sample from which the profile was derived

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was taken (or, if the profile was derived from more than one DNA sample, the date on which the first of those samples was taken).

- (4) But if, before the material is required to be destroyed by virtue of this section, the person is arrested for or charged with a recordable offence—
- (a) where the person is aged 18 or over at the time of the alleged offence, the material may be further retained until the end of the period of 6 years beginning with the date of the arrest or charge,
  - (b) where—
    - (i) the alleged offence is not a qualifying offence, and
    - (ii) the person is aged under 18 at the time of the alleged offence,the material may be further retained until the end of the period of 3 years beginning with the date of the arrest or charge,
  - (c) where—
    - (i) the alleged offence is a qualifying offence, and
    - (ii) the person is aged under 16 at the time of the alleged offence,the material may be further retained until the end of the period of 3 years beginning with the date of the arrest or charge,
  - (d) where—
    - (i) the alleged offence is a qualifying offence, and
    - (ii) the person is aged 16 or 17 at the time of the alleged offence,the material may be further retained until the end of the period of 6 years beginning with the date of the arrest or charge,
  - (e) where—
    - (i) the person is convicted of the offence,
    - (ii) the offence is not a qualifying offence,
    - (iii) the person is aged under 18 at the time of the offence, and
    - (iv) the person has no previous convictions,the material may be further retained until the end of the period of 5 years beginning with the date of the arrest or charge.
- (5) This section ceases to have effect in relation to the material if, before the material is required to be destroyed by virtue of this section, the person—
- (a) is convicted of a recordable offence and is aged 18 or over at the time of the offence,
  - (b) is convicted of a qualifying offence, or
  - (c) having a previous exempt conviction, is convicted of a recordable offence.

#### Textual Amendments

**F76** Ss. 64ZA-64ZN inserted (prosp.) by [Crime and Security Act 2010 \(c. 17\)](#), **ss. 14(2), 59**

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PROSPECTIVE

**64ZF Destruction of data relating to persons under 16 not convicted: qualifying offences** E+W

- (1) This section applies to material falling within subsection (2) relating to a person who—
  - (a) has no previous convictions or only one exempt conviction,
  - (b) is arrested for or charged with a qualifying offence, and
  - (c) is aged under 16 at the time of the alleged offence.
- (2) Material falls within this subsection if it is—
  - (a) fingerprints or impressions of footwear taken from the person in connection with the investigation of the offence, or
  - (b) a DNA profile derived from a DNA sample so taken.
- (3) The material must be destroyed—
  - (a) in the case of fingerprints or impressions of footwear, before the end of the period of 3 years beginning with the date on which the fingerprints or impressions were taken,
  - (b) in the case of a DNA profile, before the end of the period of 3 years beginning with the date on which the DNA sample from which the profile was derived was taken (or, if the profile was derived from more than one DNA sample, the date on which the first of those samples was taken).
- (4) But if, before the material is required to be destroyed by virtue of this section, the person is arrested for or charged with a recordable offence—
  - (a) where the person is aged 18 or over at the time of the alleged offence, the material may be further retained until the end of the period of 6 years beginning with the date of the arrest or charge,
  - (b) where—
    - (i) the alleged offence is not a qualifying offence, and
    - (ii) the person is aged under 18 at the time of the alleged offence,
 the material may be further retained until the end of the period of 3 years beginning with the date of the arrest or charge,
  - (c) where—
    - (i) the alleged offence is a qualifying offence, and
    - (ii) the person is aged under 16 at the time of the alleged offence,
 the material may be further retained until the end of the period of 3 years beginning with the date of the arrest or charge,
  - (d) where—
    - (i) the alleged offence is a qualifying offence, and
    - (ii) the person is aged 16 or 17 at the time of the alleged offence,
 the material may be further retained until the end of the period of 6 years beginning with the date of the arrest or charge,
  - (e) where—
    - (i) the person is convicted of the offence,
    - (ii) the offence is not a qualifying offence,
    - (iii) the person is aged under 18 at the time of the offence, and



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- (iv) the person has no previous convictions,  
the material may be further retained until the end of the period of 5 years beginning with the date of the arrest or charge.
- (5) This section ceases to have effect in relation to the material if, before the material is required to be destroyed by virtue of this section, the person—
- (a) is convicted of a recordable offence and is aged 18 or over at the time of the offence,
  - (b) is convicted of a qualifying offence, or
  - (c) having a previous exempt conviction, is convicted of a recordable offence.

#### Textual Amendments

**F76** Ss. 64ZA-64ZN inserted (prosp.) by [Crime and Security Act 2010 \(c. 17\)](#), ss. 14(2), 59

PROSPECTIVE

#### **64ZG Destruction of data relating to persons aged 16 or 17 not convicted: qualifying offences** **E+W**

- (1) This section applies to material falling within subsection (2) relating to a person who—
  - (a) has no previous convictions or only one exempt conviction,
  - (b) is arrested for or charged with a qualifying offence, and
  - (c) is aged 16 or 17 at the time of the alleged offence.
- (2) Material falls within this subsection if it is—
  - (a) fingerprints or impressions of footwear taken from the person in connection with the investigation of the offence, or
  - (b) a DNA profile derived from a DNA sample so taken.
- (3) The material must be destroyed—
  - (a) in the case of fingerprints or impressions of footwear, before the end of the period of 6 years beginning with the date on which the fingerprints or impressions were taken,
  - (b) in the case of a DNA profile, before the end of the period of 6 years beginning with the date on which the DNA sample from which the profile was derived was taken (or, if the profile was derived from more than one DNA sample, the date on which the first of those samples was taken).
- (4) But if, before the material is required to be destroyed by virtue of this section, the person is arrested for or charged with a recordable offence—
  - (a) where the person is aged 18 or over at the time of the alleged offence, the material may be further retained until the end of the period of 6 years beginning with the date of the arrest or charge,
  - (b) where—
    - (i) the alleged offence is not a qualifying offence, and
    - (ii) the person is aged under 18 at the time of the alleged offence,the material may be further retained until the end of the period of 3 years beginning with the date of the arrest or charge,

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- (c) where—
    - (i) the alleged offence is a qualifying offence, and
    - (ii) the person is aged 16 or 17 at the time of the alleged offence,
 the material may be further retained until the end of the period of 6 years beginning with the date of the arrest or charge,
  - (d) where—
    - (i) the person is convicted of the offence,
    - (ii) the offence is not a qualifying offence,
    - (iii) the person is aged under 18 at the time of the offence, and
    - (iv) the person has no previous convictions,
 the material may be further retained until the end of the period of 5 years beginning with the date of the arrest or charge.
- (5) This section ceases to have effect in relation to the material if, before the material is required to be destroyed by virtue of this section, the person—
- (a) is convicted of a recordable offence and is aged 18 or over at the time of the offence,
  - (b) is convicted of a qualifying offence, or
  - (c) having a previous exempt conviction, is convicted of a recordable offence.

#### Textual Amendments

**F76** Ss. 64ZA-64ZN inserted (prosp.) by [Crime and Security Act 2010 \(c. 17\)](#), [ss. 14\(2\), 59](#)

PROSPECTIVE

#### **64ZH Destruction of data relating to persons under 18 convicted of a recordable offence other than a qualifying offence** E+W

- (1) This section applies to material falling within subsection (2) relating to a person who—
  - (a) has no previous convictions,
  - (b) is convicted of a recordable offence other than a qualifying offence, and
  - (c) is aged under 18 at the time of the offence.
- (2) Material falls within this subsection if it is—
  - (a) fingerprints or impressions of footwear taken from the person in connection with the investigation of the offence, or
  - (b) a DNA profile derived from a DNA sample so taken.
- (3) The material must be destroyed—
  - (a) in the case of fingerprints or impressions of footwear, before the end of the period of 5 years beginning with the date on which the fingerprints or impressions were taken,
  - (b) in the case of a DNA profile, before the end of the period of 5 years beginning with the date on which the DNA sample from which the profile was derived was taken (or, if the profile was derived from more than one DNA sample, the date on which the first of those samples was taken).

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- (4) But if, before the material is required to be destroyed by virtue of this section, the person is arrested for or charged with a recordable offence—
- (a) where the person is aged 18 or over at the time of the alleged offence, the material may be further retained until the end of the period of 6 years beginning with the date of the arrest or charge,
  - (b) where—
    - (i) the alleged offence is not a qualifying offence, and
    - (ii) the person is aged under 18 at the time of the alleged offence,the material may be further retained until the end of the period of 3 years beginning with the date of the arrest or charge,
  - (c) where—
    - (i) the alleged offence is a qualifying offence, and
    - (ii) the person is aged under 16 at the time of the alleged offence,the material may be further retained until the end of the period of 3 years beginning with the date of the arrest or charge,
  - (d) where—
    - (i) the alleged offence is a qualifying offence, and
    - (ii) the person is aged 16 or 17 at the time of the alleged offence,the material may be further retained until the end of the period of 6 years beginning with the date of the arrest or charge.
- (5) This section ceases to have effect in relation to the material if the person is convicted of a further recordable offence before the material is required to be destroyed by virtue of this section.

#### Textual Amendments

**F76** Ss. 64ZA-64ZN inserted (prosp.) by [Crime and Security Act 2010 \(c. 17\)](#), [ss. 14\(2\)](#), 59

PROSPECTIVE

#### **64ZI** Sections 64ZB to 64ZH: supplementary provision **E+W**

- (1) Any reference in section 64ZB or sections 64ZD to 64ZH to a person being charged with an offence includes a reference to a person being informed that he will be reported for an offence.
- (2) For the purposes of those sections—
- (a) a person has no previous convictions if the person has not previously been convicted of a recordable offence, and
  - (b) if the person has been previously convicted of a recordable offence, the conviction is exempt if it is in respect of a recordable offence other than a qualifying offence, committed when the person is aged under 18.
- (3) For the purposes of those sections, a person is to be treated as having been convicted of an offence if—
- (a) he has been given a caution in respect of the offence which, at the time of the caution, he has admitted, or

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<sup>F79</sup>(b) .....

- (4) If a person is convicted of more than one offence arising out of a single course of action, those convictions are to be treated as a single conviction for the purpose of any provision of those sections relating to an exempt, first or subsequent conviction.
- (5) Subject to the completion of any speculative search that the responsible chief officer of police considers necessary or desirable, material falling within any of sections 64ZD to 64ZH must be destroyed immediately if it appears to the chief officer that—
- (a) the arrest was unlawful,
  - (b) the taking of the fingerprints, impressions of footwear or DNA sample concerned was unlawful,
  - (c) the arrest was based on mistaken identity, or
  - (d) other circumstances relating to the arrest or the alleged offence mean that it is appropriate to destroy the material.
- (6) “Responsible chief officer of police” means the chief officer of police for the police area—
- (a) in which the samples, fingerprints or impressions of footwear were taken, or
  - (b) in the case of a DNA profile, in which the sample from which the DNA profile was derived was taken.

#### Textual Amendments

**F76** Ss. 64ZA-64ZN inserted (prosp.) by [Crime and Security Act 2010 \(c. 17\)](#), **ss. 14(2)**, 59

**F79** S. 64ZI(3)(b) omitted (8.4.2013) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), **Sch. 24 para. 10** (with s. 135(4)); S.I. 2013/453, art. 4(f)

PROSPECTIVE

#### **64ZJ Destruction of fingerprints taken under section 61(6A) E+W**

Fingerprints taken from a person by virtue of section 61(6A) (taking fingerprints for the purposes of identification) must be destroyed as soon as they have fulfilled the purpose for which they were taken.

#### Textual Amendments

**F76** Ss. 64ZA-64ZN inserted (prosp.) by [Crime and Security Act 2010 \(c. 17\)](#), **ss. 14(2)**, 59

PROSPECTIVE

#### **64ZK Retention for purposes of national security E+W**

- (1) Subsection (2) applies if the responsible chief officer of police determines that it is necessary for—
- (a) a DNA profile to which section 64 applies, or

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- (b) fingerprints to which section 64 applies, other than fingerprints taken under section 61(6A),  
to be retained for the purposes of national security.
- (2) Where this subsection applies—
  - (a) the material is not required to be destroyed in accordance with sections 64ZB to 64ZH, and
  - (b) section 64ZN(2) does not apply to the material,  
for as long as the determination has effect.
- (3) A determination under subsection (1) has effect for a maximum of 2 years beginning with the date on which the material would otherwise be required to be destroyed, but a determination may be renewed.
- (4) “Responsible chief officer of police” means the chief officer of police for the police area—
  - (a) in which the fingerprints were taken, or
  - (b) in the case of a DNA profile, in which the sample from which the DNA profile was derived was taken.

#### Textual Amendments

**F76** Ss. 64ZA-64ZN inserted (prosp.) by [Crime and Security Act 2010 \(c. 17\)](#), **ss. 14(2)**, 59

PROSPECTIVE

#### **64ZL Retention with consent** **E+W**

- (1) If a person consents in writing to the retention of fingerprints, impressions of footwear or a DNA profile to which section 64 applies, other than fingerprints taken under section 61(6A)—
  - (a) the material is not required to be destroyed in accordance with sections 64ZB to 64ZH, and
  - (b) section 64ZN(2) does not apply to the material.
- (2) It is immaterial for the purposes of subsection (1) whether the consent is given at, before or after the time when the entitlement to the destruction of the material arises.
- (3) Consent given under this section can be withdrawn at any time.

#### Textual Amendments

**F76** Ss. 64ZA-64ZN inserted (prosp.) by [Crime and Security Act 2010 \(c. 17\)](#), **ss. 14(2)**, 59

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PROSPECTIVE

### **64ZM Destruction of copies, and notification of destruction** E+W

- (1) If fingerprints or impressions of footwear are required to be destroyed by virtue of any of sections 64ZB to 64ZJ, any copies of the fingerprints or impressions of footwear must also be destroyed.
- (2) If a DNA profile is required to be destroyed by virtue of any of those sections, no copy may be kept except in a form which does not include information which identifies the person to whom the DNA profile relates.
- (3) If a person makes a request to the responsible chief officer of police to be notified when anything relating to the person is destroyed under any of sections 64ZA to 64ZJ, the responsible chief officer of police or a person authorised by the chief officer or on the chief officer's behalf must within three months of the request issue the person with a certificate recording the destruction.
- (4) “Responsible chief officer of police” means the chief officer of police for the police area—
  - (a) in which the samples, fingerprints or impressions of footwear which have been destroyed were taken, or
  - (b) in the case of a DNA profile which has been destroyed, in which the samples from which the DNA profile was derived were taken.

#### **Textual Amendments**

**F76** Ss. 64ZA-64ZN inserted (prosp.) by [Crime and Security Act 2010 \(c. 17\)](#), **ss. 14(2)**, 59

PROSPECTIVE

### **64ZN Use of retained material** E+W

- (1) Any material to which section 64 applies which is retained after it has fulfilled the purpose for which it was taken or derived must not be used other than—
  - (a) in the interests of national security,
  - (b) for the purposes of a terrorist investigation,
  - (c) for purposes related to the prevention or detection of crime, the investigation of an offence or the conduct of a prosecution, or
  - (d) for purposes related to the identification of a deceased person or of the person to whom the material relates.
- (2) Material which is required to be destroyed by virtue of any of sections 64ZA to 64ZJ, or of section 64ZM, must not at any time after it is required to be destroyed be used—
  - (a) in evidence against the person to whom the material relates, or
  - (b) for the purposes of the investigation of any offence.
- (3) In this section—

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- (a) the reference to using material includes a reference to allowing any check to be made against it and to disclosing it to any person,
- (b) the reference to crime includes a reference to any conduct which—
  - (i) constitutes one or more criminal offences (whether under the law of a part of the United Kingdom or of a country or territory outside the United Kingdom), or
  - (ii) is, or corresponds to, any conduct which, if it all took place in any one part of the United Kingdom, would constitute one or more criminal offences, and
- (c) the references to an investigation and to a prosecution include references, respectively, to any investigation outside the United Kingdom of any crime or suspected crime and to a prosecution brought in respect of any crime in a country or territory outside the United Kingdom.]

#### Textual Amendments

F76 Ss. 64ZA–64ZN inserted (prosp.) by [Crime and Security Act 2010 \(c. 17\)](#), ss. 14(2), 59

#### [<sup>F80</sup>64A Photographing of suspects etc. **E+W**

- (1) A person who is detained at a police station may be photographed—
  - (a) with the appropriate consent; or
  - (b) if the appropriate consent is withheld or it is not practicable to obtain it, without it.
- (2) A person proposing to take a photograph of any person under this section—
  - (a) may, for the purpose of doing so, require the removal of any item or substance worn on or over the whole or any part of the head or face of the person to be photographed; and
  - (b) if the requirement is not complied with, may remove the item or substance himself.
- (3) Where a photograph may be taken under this section, the only persons entitled to take the photograph are [<sup>F81</sup>constables].
- (4) A photograph taken under this section—
  - (a) may be used by, or disclosed to, any person for any purpose related to the prevention or detection of crime, the investigation of an offence or the conduct of a prosecution; and
  - (b) after being so used or disclosed, may be retained but may not be used or disclosed except for a purpose so related.
- (5) In subsection (4)—
  - (a) the reference to crime includes a reference to any conduct which—
    - (i) constitutes one or more criminal offences (whether under the law of a part of the United Kingdom or of a country or territory outside the United Kingdom); or
    - (ii) is, or corresponds to, any conduct which, if it all took place in any one part of the United Kingdom, would constitute one or more criminal offences;



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and

- (b) the references to an investigation and to a prosecution include references, respectively, to any investigation outside the United Kingdom of any crime or suspected crime and to a prosecution brought in respect of any crime in a country or territory outside the United Kingdom.

- (6) References in this section to taking a photograph include references to using any process by means of which a visual image may be produced; and references to photographing a person shall be construed accordingly.]

#### Textual Amendments

**F80** S. 64A inserted (14.12.2001) by 2001 c. 24, s. 92

**F81** Words in s. 64A(3) substituted (2.12.2002) by Police Reform Act 2002 (c. 30), s. 107, Sch. 7 para. 9(5); S.I. 2002/2750, art. 2(b)(ii)

#### Modifications etc. (not altering text)

**C46** S. 64A extended (2.12.2002) by Police Reform Act 2002 (c. 30), s. 38, Sch. 4 para. 33; S.I. 2002/2750, art. 2(a)(ii)(d)

## 65 Part V—supplementary. **E+W**

[<sup>F82</sup>(1)] In this Part of this Act—

[<sup>F83</sup>“analysis”, in relation to a skin impression, includes comparison and matching;]

“appropriate consent” means—

- (a) in relation to a person who has attained the age of 17 years, the consent of that person;
- (b) in relation to a person who has not attained that age but has attained the age of 14 years, the consent of that person and his parent or guardian; and
- (c) in relation to a person who has not attained the age of 14 years, the consent of his parent or guardian;

**F84**

[<sup>F85</sup>“fingerprints”, in relation to any person, means a record (in any form and produced by any method) of the skin pattern and other physical characteristics or features of—

- (a) any of that person’s fingers; or
- (b) either of his palms;]

[<sup>F86</sup>“intimate sample” means—

- (a) a sample of blood, semen or any other tissue fluid, urine or pubic hair;
- (b) a dental impression;
- (c) a swab taken from a person’s body orifice other than the mouth;]

[<sup>F87</sup>“intimate search” means a search which consists of the physical examination of a person’s body orifices other than the mouth;]

[<sup>F88</sup>“non-intimate sample” means—

- (a) a sample of hair other than pubic hair;
- (b) a sample taken from a nail or from under a nail;
- (c) a swab taken from any part of a person’s body including the mouth but not any other body orifice;

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(d) saliva;

(e) [<sup>F89</sup>a skin impression;]

[<sup>F90</sup>“registered dentist” has the same meaning as in the <sup>M12</sup>Dentists Act 1984;

[<sup>F91</sup>“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;]

[<sup>F92</sup>“skin impression”, in relation to any person, means any record (other than a fingerprint) which is a record (in any form and produced by any method) of the skin pattern and other physical characteristics or features of the whole or any part of his foot or of any other part of his body;]

“speculative search”, in relation to a person’s fingerprints or samples, means such a check against other fingerprints or samples or against information derived from other samples as is referred to in section 63A(1) above;

“sufficient” and “insufficient”, in relation to a sample, means [<sup>F93</sup>(subject to subsection (2) below)]sufficient or insufficient (in point of quantity or quality) for the purpose of enabling information to be produced by the means of analysis used or to be used in relation to the sample];

[<sup>F94</sup>“the terrorism provisions” means section 41 of the Terrorism Act 2000, and any provision of Schedule 7 to that Act conferring a power of detention; and

“terrorism” has the meaning given in section 1 of that Act.]

<sup>F95</sup> . . . . .  
<sup>F96</sup> . . . . .

[<sup>F97</sup>(1A) 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.

(1B) An order under subsection (1) shall be made by statutory instrument and shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

[<sup>F98</sup>(2) References in this Part of this Act to a sample’s proving insufficient include references to where, as a consequence of—

(a) the loss, destruction or contamination of the whole or any part of the sample,

(b) any damage to the whole or a part of the sample, or

(c) the use of the whole or a part of the sample for an analysis which produced no results or which produced results some or all of which must be regarded, in the circumstances, as unreliable,

the sample has become unavailable or insufficient for the purpose of enabling information, or information of a particular description, to be obtained by means of analysis of the sample.]

#### Textual Amendments

**F82** S. 65 renumbered as s. 65(1) (1.1.2003) by [Criminal Justice and Police Act 2001 \(c. 16\)](#), [ss. 80\(5\)](#), [138\(2\)](#); [S.I. 2002/3032](#), [art. 2\(b\)](#)

**F83** Words in s. 65(1) inserted (1.1.2003) by [2001 c. 16](#), [s. 80\(5\)\(a\)](#); [S.I. 2002/3032](#), [art. 2\(b\)](#)

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- F84** S. 65(1): definitions of "drug trafficking" and "drug trafficking offence" repealed (24.3.2003) by Proceeds of Crime Act 2002 (c. 29), ss. 457, 458(1)(3), **Sch. 12**; S.I. 2003/333, **art. 2(1)**, Sch. (as amended by S.I. 2003/531, arts. 3, 4)
- F85** S. 65(1): definition of "fingerprints" substituted (1.1.2003) by 2001 c. 16, s. 78(8); S.I. 2002/3032, **art. 2(a)**
- F86** Definition of "intimate sample" in s. 65 substituted (10.4.1995) by 1994 c. 33, s. 58(2); S.I. 1995/721, **art. 2, Sch.**
- F87** Definition of "intimate search" in s. 65 inserted (10.4.1995) by 1994 c. 33, s. 59(1); S.I. 1995/721, **art. 2, Sch.**
- F88** Definition of "non-intimate sample" substituted (10.4.1995) by 1994 c. 33, s. 58(3); S.I. 1995/721, **art. 2, Sch.**
- F89** S. 65(1): words in the definition of "non-intimate sample" substituted (1.1.2003) by 2001 c. 16, s. 80(5)(b); S.I. 2002/3032, **art. 2(b)**
- F90** Definitions of "registered dentist", "speculative search" and "sufficient" and "insufficient" in s. 65 inserted (10.4.1995) by 1994 c. 33, s. 58(4); S.I. 1995/721, **art. 2, Sch.**
- F91** Definition of "registered health care professional" in s. 65 inserted (1.10.2002 for specified purposes otherwise 1.4.2003.) by Police Reform Act 2002 (c. 30), ss. {54(2)}, 108(2)-(5); S.I. 2002/2306, **art. 4(d)**; S.I. 2003/808, **art. 2(e)**
- F92** S. 65(1): definition of "skin impression" inserted (1.1.2003) by 2001 c. 16, s. 80(5)(c); S.I. 2002/3032, **art. 2(b)**
- F93** S. 65(1): words in definition of "sufficient" and "insufficient" inserted (1.1.2003) by 2001 c. 16, s. 80(5)(d); S.I. 2002/3032, **art. 2(b)**
- F94** Definitions of "the terrorism provisions" and "terrorism" in s. 65 substituted (19.2.2001) by 2000 c. 11, s. 125, **Sch. 15 para. 5(10)** (with s 129(1)); S.I. 2001/421, **art. 2**
- F95** Word repealed by Criminal Justice Act 1988 (c. 33, SIF 39:1), s. 170(2), **Sch. 16**
- F96** Words in s. 65(1) repealed (24.3.2003) by Proceeds of Crime Act 2002 (c. 29), ss. 457, 458(1)(3), **Sch. 12**; S.I. 2003/333, **art. 2(1)**, Sch. (as amended by S.I. 2003/531, arts. 3, 4)
- F97** S. 65(1A)(1B) inserted (1.10.2002 for specified purposes otherwise 1.4.2003) by Police Reform Act 2002 (c. 30), ss. 54(3), 108(2)-(5); S.I. 2002/2306, **art. 4(d)**; S.I. 2003/808, **art. 2(e)**
- F98** S. 65(2) inserted (1.1.2003) by 2001 c. 16, s. 80(6); S.I. 2002/3032, **art. 2(b)**

#### Modifications etc. (not altering text)

- C47** S. 65 applied with modifications: by S.I. 1985/1882, **art. 10**; (1.2.1997) by S.I. 1997/15, **art. 2(1)**, **Sch.**  
S. 65 applied (with modifications) (31.12.2006) by The Police and Criminal Evidence Act 1984 (Application to the Armed Forces) Order 2006 (S.I. 2006/2015), arts. 2, 3, **Schs. 1-3**

#### Marginal Citations

- M12** 1984 c. 24.

## 65A "Qualifying offence" **E+W**

- (1) In this Part, "qualifying offence" means—
- an offence specified in subsection (2) below, or
  - an ancillary offence relating to such an offence.
- (2) The offences referred to in subsection (1)(a) above are—
- murder;
  - manslaughter;
  - false imprisonment;
  - kidnapping;

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**Status:** Point in time view as at 24/03/2003. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:** Police and Criminal Evidence Act 1984, Part V is up to date with all changes known to be in force on or before 01 September 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)

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- (e) an offence under section 4, 16, 18, 20 to 24 or 47 of the Offences Against the Person Act 1861;
  - (f) an offence under section 2 or 3 of the Explosive Substances Act 1883;
  - (g) an offence under section 1 of the Children and Young Persons Act 1933;
  - (h) an offence under section 4(1) of the Criminal Law Act 1967 committed in relation to murder;
  - (i) an offence under sections 16 to 18 of the Firearms Act 1968;
  - (j) an offence under section 9 or 10 of the Theft Act 1968 or an offence under section 12A of that Act involving an accident which caused a person's death;
  - (k) an offence under section 1 of the Criminal Damage Act 1971 required to be charged as arson;
  - (l) an offence under section 1 of the Protection of Children Act 1978;
  - (m) an offence under section 1 of the Aviation Security Act 1982;
  - (n) an offence under section 2 of the Child Abduction Act 1984;
  - (o) an offence under section 9 of the Aviation and Maritime Security Act 1990;
  - (p) an offence under any of sections 1 to 19, 25, 26, 30 to 41, 47 to 50, 52, 53, 57 to 59, 61 to 67, 69 and 70 of the Sexual Offences Act 2003;
  - (q) an offence under section 5 of the Domestic Violence, Crime and Victims Act 2004;
  - (r) an offence for the time being listed in section 41(1) of the Counter-Terrorism Act 2008.
- (3) The Secretary of State may by order made by statutory instrument amend subsection (2) above.
- (4) A statutory instrument containing an order under subsection (3) above shall not be made unless a draft of the instrument has been laid before, and approved by resolution of, each House of Parliament.
- (5) In subsection (1)(b) above “ancillary offence”, in relation to an offence, means—
- (a) aiding, abetting, counselling or procuring the commission of the offence;
  - (b) an offence under Part 2 of the Serious Crime Act 2007 (encouraging or assisting crime) in relation to the offence (including, in relation to times before the commencement of that Part, an offence of incitement);
  - (c) attempting or conspiring to commit the offence.

**Status:**

Point in time view as at 24/03/2003. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:**

Police and Criminal Evidence Act 1984, Part V is up to date with all changes known to be in force on or before 01 September 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.