



# Police and Criminal Evidence Act 1984

## 1984 CHAPTER 60

### PART V

#### QUESTIONING AND TREATMENT OF PERSONS BY POLICE

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

- C1** Pt. V incorporated (16.5.2008) by [The London Gateway Port Harbour Empowerment Order 2008 \(S.I. 2008/1261\)](#), [art. 52](#)

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

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- F1** S. 53(2) repealed by [Prevention of Terrorism \(Temporary Provisions\) Act 1989 \(c. 4, SIF 39:2\)](#), s. 25(2), [Sch. 9 Pt.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

(1) <sup>F2</sup>The custody officer at a police station shall ascertain . . . 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

*Status: Point in time view as at 28/06/2022. This version of this part contains provisions that are prospective.*

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- <sup>F3</sup>[<sup>F4</sup>(b) arrested at the station or detained there [<sup>F5</sup>, as a person falling within section 34(7), under section 37 above [<sup>F6</sup>or as a person to whom section 46ZA(4) or (5) applies]].]
- [<sup>F7</sup>(2) The custody officer may record or cause to be recorded all or any of the things which he ascertains under subsection (1).
- (2A) In the case of an arrested person, any such record may be made as part of his custody record.]
- (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>F8</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** Words in s. 54(1) repealed (20.1.2004) by [Criminal Justice Act 2003 \(c. 44\)](#), ss. 8(1), 332, 336, [Sch. 37 Pt. 1](#); [S.I. 2004/81](#), [art. 2\(1\)\(2\)\(a\)\(f\)\(g\)\(i\)](#)
- F3** Words in s. 54(1)(b) inserted (1.4.2007 for specified purposes, 14.11.2008 for specified purposes, 3.10.2011 for specified purposes, 8.10.2012 in so far as not already in force) by [Police and Justice](#)

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- Act 2006 (c. 48), **ss. 46(6)**, 53(1); S.I. 2007/709, art. 3(n) (with art. 6); S.I. 2008/2785, art. 2; S.I. 2011/2144, art. 2(1)(b); S.I. 2012/2373, art. 2(b)
- F4** S. 54(1)(b) substituted by Criminal Justice Act 1988 (c. 33, SIF 39:1), **s. 147(a)**
- F5** 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**
- F6** Words in s. 54(1)(b) inserted (1.4.2007 for certain purposes, otherwise prosp.) by Police and Justice Act 2006 (c. 48), **ss. 46(6)**, 53; S.I. 2007/709, **art. 3(n)** (subject to arts. 6, 7)
- F7** S. 54(2)(2A) substituted (20.1.2004) for s. 54(2) by Criminal Justice Act 2003 (c. 44), **ss. 8(2)**, 336; S.I. 2004/81, **art. 2(1)(2)(a)**
- F8** S. 54(6A)–(6C) inserted by Criminal Justice Act 1988 (c. 33, SIF 39:1), **s. 147(b)**

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

- C2** 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.
- C3** 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))
- C4** 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)**
- C5** 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)))
- C6** S. 54 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**
- C7** S. 54 applied (with modifications) (25.6.2013) by The Police and Criminal Evidence Act 1984 (Application to immigration officers and designated customs officials in England and Wales) Order 2013 (S.I. 2013/1542), arts. 1, 12(2)–(4), **Sch. 2** (with arts. 13-31)
- C8** S. 54 applied (with modifications) (4.11.2015) by The Police and Criminal Evidence Act 1984 (Application to Revenue and Customs) Order 2015 (S.I. 2015/1783), arts. 1, 3(1), **Sch. 1** (with art. 3(2), (3), 4-19, Sch. 2)
- C9** 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)**
- C10** 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)**
- C11** 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)**

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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\(a\)\(ii\)\(d\)](#)

#### **[<sup>F9</sup>54A Searches and examination to ascertain identity**

- (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.
- (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>F10</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—

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- (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.

<sup>F11</sup>(13) [ Nothing in this section applies to a person arrested under an extradition arrest power. ]

#### Textual Amendments

- F9** S. 54A inserted (14.12.2001) by [2001 c. 24, s. 90\(1\)](#)
- F10** 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\(b\)\(ii\)](#)
- F11** S. 54A(13) inserted (1.1.2004) by [Extradition Act 2003 \(c. 41\), ss. 169\(2\), 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\(2\)](#)))

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

- C12** S. 54A applied (with modifications) (25.6.2013) by [The Police and Criminal Evidence Act 1984 \(Application to immigration officers and designated customs officials in England and Wales\) Order 2013 \(S.I. 2013/1542\), arts. 1, 12\(2\)-\(4\), Sch. 2](#) (with arts. 13-31)
- C13** S. 54A 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. 54A applied (with modifications) by [Criminal Justice Act 2003 \(c. 44\), s. 24B\(7\)](#) (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\(e\)](#))

#### <sup>F12</sup>[54B Searches of persons answering to live link bail

- (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.

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- (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**

**F12** Ss. 54B, 54C inserted (14.12.2009 for specified purposes, 3.10.2011 for specified purposes, 8.10.2012 in so far as not already in force) by [Coroners and Justice Act 2009 \(c. 25\)](#), **ss. 108(1)**, 182(5) (with s. 180); S.I. 2009/3253, art. 3(1)(c); S.I. 2011/2148, art. 2; S.I. 2012/2374, art. 3(c)

#### **<sup>F12</sup>[54C Power to retain articles seized**

- (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.
- (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.]



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### Textual Amendments

**F12** Ss. 54B, 54C inserted (14.12.2009 for specified purposes, 3.10.2011 for specified purposes, 8.10.2012 in so far as not already in force) by [Coroners and Justice Act 2009 \(c. 25\)](#), **ss. 108(1)**, 182(5) (with [s. 180](#)); [S.I. 2009/3253, art. 3\(1\)\(c\)](#); [S.I. 2011/2148, art. 2](#); [S.I. 2012/2374, art. 3\(c\)](#)

## 55 Intimate searches

- (1) Subject to the following provisions of this section, if an officer of at least the rank of <sup>[F13]</sup>inspector] 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>[F14]</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.
- <sup>[F15]</sup>(3A) A drug offence search shall not be carried out unless the appropriate consent has been given in writing.
- (3B) Where it is proposed that a drug offence search be carried out, an appropriate officer shall inform the person who is to be subject to it—
  - (a) of the giving of the authorisation for it; and
  - (b) of the grounds for giving the authorisation.]
- (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 <sup>[F13]</sup>inspector] 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.
- (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

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- (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.
- [<sup>F16</sup>(10A) If the intimate search is a drug offence search, the custody record relating to that person shall also state—
- (a) the authorisation by virtue of which the search was carried out;
  - (b) the grounds for giving the authorisation; and
  - (c) the fact that the appropriate consent was given.]
- (11) The information required to be recorded by [<sup>F17</sup>subsections (10) and (10A)] 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.
- [<sup>F18</sup>(13A) Where the appropriate consent to a drug offence search of any person was refused without good cause, in any proceedings against that person for an offence—
- (a) the court, in determining whether there is a case to answer;
  - (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.]
- (14) Every annual report—
- [<sup>F19</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.
- (14A) <sup>F20</sup> .....



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- (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.
- (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);
- [<sup>F21</sup>“appropriate officer” means—
- (a) a constable,
  - (b) <sup>F22</sup> ... <sup>F23</sup> ...
  - (c) <sup>F23</sup> .....
- ] “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

- F13** Words in s. 55(1)(5) inserted (1.4.2003) by 2001 c. 16, ss. 79, 138(2); S.I. 2003/708, **art. 2(g)**
- F14** Words substituted by **Criminal Justice Act 1988 (c. 33, SIF 39:1)**, s. 170(1), **Sch. 15 para. 99**
- F15** S. 55(3A)(3B) inserted (1.1.2006) by **Drugs Act 2005 (c. 17)**, **ss. 3(2)**, 24; S.I. 2005/3053, **art. 3(b)**
- F16** S. 55(10A) inserted (1.1.2006) by **Drugs Act 2005 (c. 17)**, **ss. 3(3)**, 24; S.I. 2005/3053, **art. 3(b)**
- F17** Words in s. 55(11) substituted (1.1.2006) by **Drugs Act 2005 (c. 17)**, **ss. 3(4)**, 24; S.I. 2005/3053, **art. 3(b)**
- F18** S. 55(13A) inserted (1.1.2006) by **Drugs Act 2005 (c. 17)**, **ss. 3(5)**, 24; S.I. 2005/3053, **art. 3(b)**
- F19** S. 55(14)(a) substituted (22.8.1996) by 1996 c. 16, ss. 103(1), 104(1), **Sch. 7 Pt. II para. 36**
- F20** S. 55(14A) repealed (1.4.2006) by **Serious Organised Crime and Police Act 2005 (c. 15)**, ss. 59, 174, 178, **Sch. 4 para. 45**, **Sch. 17 Pt. 2**; S.I. 2006/378, **art. 4(1)**, **Sch. paras. 10, 12, 13(q)** (subject to art. 4(2)-(7))
- F21** S. 55(17): definition of “appropriate officer” inserted (1.1.2006) by **Drugs Act 2005 (c. 17)**, **ss. 3(6)**, 24; S.I. 2005/3053, **art. 3(b)**
- F22** Words in s. 55(17) omitted (31.1.2017 for specified purposes, 15.12.2017 in so far as not already in force) by virtue of **Policing and Crime Act 2017 (c. 3)**, s. 183(1)(5)(e), **Sch. 12 para. 7(2)**; S.I. 2017/1139, **reg. 2(k)** (as amended by S.I. 2017/1162, **reg. 2**)

*Status: Point in time view as at 28/06/2022. This version of this part contains provisions that are prospective.*

*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 17 June 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)*

**F23** Words in s. 55(17) definition of “appropriate officer” repealed (12.1.2010) by [Policing and Crime Act 2009 \(c. 26\)](#), ss. 112(1)(2), 116(6), Sch. 7 para. 123(5), **Sch. 8 Pt. 13**

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

- C14** 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)–(3)(5)(6)–(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.**
- C15** 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**
- C16** S. 55: power to apply (with modifications) conferred (1.1.2004) by [Extradition Act 2003 \(c. 41\)](#), ss. **171(3)(b), 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)))
- C17** S. 55 applied (with modifications) (1.1.2004) by [The Extradition Act 2003 \(Police Powers\) Order 2003 \(S.I. 2003/3106\)](#), **art. 2**
- C18** S. 55 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**
- C19** S. 55 applied (with modifications) (4.11.2015) by [The Police and Criminal Evidence Act 1984 \(Application to Revenue and Customs\) Order 2015 \(S.I. 2015/1783\)](#), arts. 1, 3(1), **Sch. 1** (with art. 3(2), (3), 4-19, Sch. 2)
- C20** S. 55(1)(a)(2)(3)(5)–(8)(10)(11)–(13)(14)(15)(17) applied (with modifications) (25.6.2013) by [The Police and Criminal Evidence Act 1984 \(Application to immigration officers and designated customs officials in England and Wales\) Order 2013 \(S.I. 2013/1542\)](#), arts. 1, 12(2)–(4), **Sch. 2** (with arts. 13-31)
- C21** 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)**
- C22** 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.

### **[<sup>F24</sup>55A X-rays and ultrasound scans**

- (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.

*Status: Point in time view as at 28/06/2022. This version of this part contains provisions that are prospective.*

*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 17 June 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)*

- (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—
- (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

**F24** 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)

**C23** 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**

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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 Right to have someone informed when arrested.

- (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 [<sup>F25</sup>an indictable offence] ; and
  - (b) if an officer of at least the rank of [<sup>F26</sup>inspector] 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>F27</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 [<sup>F28</sup>an indictable 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>F29</sup>(5A) An officer may also authorise delay where he has reasonable grounds for believing that—
  - (a) the person detained for [<sup>F30</sup>the indictable 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.

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(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>F31</sup>(10) Nothing in this section applies to a person arrested or detained under the terrorism provisions [<sup>F32</sup>or detained under Part 1 of Schedule 3 to the Counter-Terrorism and Border Security Act 2019].]

#### Textual Amendments

- F25** Words in s. 56(2)(a) substituted (1.1.2006) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 111, 178, **Sch. 7 Pt. 3 para. 43(9)(a)**; S.I. 2005/3495, **art. 2(1)(m)**
- F26** Word in s. 56(2)(b) substituted (1.4.2003) by Criminal Justice and Police Act 2001 (c. 16), **ss. 74, 138(2)-(4)**; S.I. 2003/708, **art. 2(e)**
- F27** Words inserted by Drug Trafficking Offences Act 1986 (c. 32, SIF 39:1), **s. 32(1)**
- F28** Words in s. 56(5)(a) substituted (1.1.2006) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 111, 178, **Sch. 7 Pt. 3 para. 43(9)(a)**; S.I. 2005/3495, **art. 2(1)(m)**
- F29** 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)
- F30** Words in s. 56(5A)(a) substituted (1.1.2006) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 111, 178, **Sch. 7 Pt. 3 para. 43(9)(b)**; S.I. 2005/3495, **art. 2(1)(m)**
- F31** 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**
- F32** Words in s. 56(10) inserted (13.8.2020) by Counter-Terrorism and Border Security Act 2019 (c. 3), s. 27(2)(d), **Sch. 4 para. 18(3)**; S.I. 2020/792, reg. 2(i)

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

- C24** 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.**
- C25** 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**
- C26** S. 56 applied by The Nationality, Immigration and Asylum Act 2002 (Juxtaposed Controls) Order 2003 (S.I. 2003/2818), **art. 5(3)** (the amendment coming into force in accordance with art. 1(2) of the amending S.I.)
- C27** S. 56: power to apply (with modifications) conferred (1.1.2004) by Extradition Act 2003 (c. 41), **ss. 171(3)(c), 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)))
- C28** S. 56 applied (with modifications) (1.1.2004) The Extradition Act 2003 (Police Powers) Order 2003 (S.I. 2003/3106), **art. 2**
- C29** S. 56 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**
- C30** S. 56 applied (with modifications) (25.6.2013) by The Police and Criminal Evidence Act 1984 (Application to immigration officers and designated customs officials in England and Wales) Order 2013 (S.I. 2013/1542), arts. 1, 12(2)-(4), **Sch. 2** (with arts. 13-31)
- C31** S. 56 applied (with modifications) by 1994 c. 33, **s. 137D(2)(b) Sch. 7B Pt. 1** (as inserted (31.1.2017 for specified purposes) by Policing and Crime Act 2017 (c. 3), ss. 116(1)(3), 183(1)(5)(e), **Sch. 16**)
- C32** S. 56 applied (with modifications) by 1994 c. 33, s. 137D(2)(b) Sch. 7B Pt. 1 (as inserted (31.1.2017 for specified purposes, 1.3.2018 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), ss. 116(1)(3), 183(1)(5)(e), **Sch. 16**; S.I. 2018/227, art. 2(f))

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- C33** S. 56(1)-(9) modified (2.8.1993) by S.I. 1993/1813, art. 6, **Sch. 3 para. 3(3)**.
- C34** S. 56(1)-(9) applied (with modifications) (4.11.2015) by **The Police and Criminal Evidence Act 1984 (Application to Revenue and Customs) Order 2015 (S.I. 2015/1783)**, arts. 1, 3(1), **Sch. 1** (with art. 3(2), (3), 4-19, Sch. 2)

## 57 Additional rights of children and young persons.

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

- “(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



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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)**

- C35** S. 57(1)–(9) expressed to be applied with modifications by S.I. 1985/1800, arts. 3–11, Schs. 1, 2
- C36** S. 57 applied (with modifications) (25.6.2013) by [The Police and Criminal Evidence Act 1984 \(Application to immigration officers and designated customs officials in England and Wales\) Order 2013 \(S.I. 2013/1542\)](#), arts. 1, 12(2)–(4), [Sch. 2](#) (with arts. 13–31)
- C37** S. 57 applied (with modifications) (4.11.2015) by [The Police and Criminal Evidence Act 1984 \(Application to Revenue and Customs\) Order 2015 \(S.I. 2015/1783\)](#), arts. 1, 3(1), [Sch. 1](#) (with art. 3(2), (3), 4–19, Sch. 2)

**Marginal Citations**

- M4** 1933 c. 12.

**58 Access to legal advice.**

- (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 [<sup>F33</sup>an indictable 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>F34</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 [<sup>F35</sup>an indictable 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.



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- [<sup>F36</sup>(8A) An officer may also authorise delay where he has reasonable grounds for believing that—
- (a) the person detained for [<sup>F37</sup>the indictable 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.
- (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>F38</sup>(12) Nothing in this section applies to a person arrested or detained under the terrorism provisions [<sup>F39</sup>or detained under Part 1 of Schedule 3 to the Counter-Terrorism and Border Security Act 2019].]

#### Textual Amendments

- F33** Words in s. 58(6)(a) substituted (1.1.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 111, 178, [Sch. 7 Pt. 3 para. 43\(10\)\(a\)](#); S.I. 2005/3495, [art. 2\(1\)\(m\)](#)
- F34** Words inserted by [Drug Trafficking Offences Act 1986 \(c. 32, SIF 39:1\)](#), [s. 32\(2\)](#)
- F35** Words in s. 58(8)(a) substituted (1.1.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 111, 178, [Sch. 7 Pt. 3 para. 43\(10\)\(a\)](#); S.I. 2005/3495, [art. 2\(1\)\(m\)](#)
- F36** 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](#))
- F37** Words in s. 58(8A)(a) substituted (1.1.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 111, 178, [Sch. 7 Pt. 3 para. 43\(10\)\(b\)](#); S.I. 2005/3495, [art. 2\(1\)\(m\)](#)
- F38** 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](#)
- F39** Words in s. 58(12) inserted (13.8.2020) by [Counter-Terrorism and Border Security Act 2019 \(c. 3\)](#), s. 27(2)(d), [Sch. 4 para. 18\(4\)](#); S.I. 2020/792, [reg. 2\(i\)](#)

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

- C38** 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.](#)
- C39** 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](#)
- C40** 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\(2\)\)\)](#)

*Status: Point in time view as at 28/06/2022. This version of this part contains provisions that are prospective.*

*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 17 June 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)*

- C41 S. 58 applied (with modifications) (1.1.2004) by [The Extradition Act 2003 \(Police Powers\) Order 2003 \(S.I. 2003/3106\)](#), [art. 2](#)
- C42 S. 58 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](#)
- C43 S. 58 applied (with modifications) (25.6.2013) by [The Police and Criminal Evidence Act 1984 \(Application to immigration officers and designated customs officials in England and Wales\) Order 2013 \(S.I. 2013/1542\)](#), [arts. 1, 12\(2\)-\(4\)](#), [Sch. 2](#) (with [arts. 13-31](#))
- C44 S. 58 applied (with modifications) by 1994 c. 33, s. 137D(2)(c) Sch. 7B Pt. 1 (as inserted (31.1.2017 for specified purposes) by [Policing and Crime Act 2017 \(c. 3\)](#), [ss. 116\(1\)\(3\), 183\(1\)\(5\)\(e\)](#), [Sch. 16](#))
- C45 S. 58 applied (with modifications) by 1994 c. 33, s. 137D(2)(c) Sch. 7B Pt. 1 (as inserted (31.1.2017 for specified purposes, 1.3.2018 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\)](#), [ss. 116\(1\)\(3\), 183\(1\)\(5\)\(e\)](#), [Sch. 16](#); [S.I. 2018/227](#), [art. 2\(f\)](#))
- C46 S. 58(1)-(11) modified (2.8.1993) by [S.I. 1993/1813](#), [art. 6](#), [Sch. 3 para. 3\(3\)](#).
- C47 S. 58(1)-(11) applied (with modifications) (4.11.2015) by [The Police and Criminal Evidence Act 1984 \(Application to Revenue and Customs\) Order 2015 \(S.I. 2015/1783\)](#), [arts. 1, 3\(1\)](#), [Sch. 1](#) (with [art. 3\(2\), \(3\), 4-19, Sch. 2](#))

<sup>F40</sup>59 .....

#### Textual Amendments

**F40** S. 59 repealed by [Legal Aid Act 1988 \(c. 34, SIF 77:1\)](#), s. 45, [Sch. 6](#)

<sup>F41</sup>60 [<sup>F41</sup>Audio recording] of interviews.

- (1) It shall be the duty of the Secretary of State—
  - (a) to issue a code of practice in connection with the [<sup>F42</sup>audio 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 [<sup>F42</sup>audio 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.

#### Textual Amendments

**F41** Words in s. 60 heading substituted (31.1.2017 for specified purposes, 31.3.2017 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\)](#), [ss. 76\(2\)\(b\), 183\(5\)\(e\)\(6\)\(a\)](#)

**F42** Words in s. 60(1)(a)(b) substituted (31.1.2017 for specified purposes, 31.3.2017 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\)](#), [ss. 76\(2\)\(a\), 183\(5\)\(e\)\(6\)\(a\)](#)

#### Commencement Information

**I1** 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](#).

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### [<sup>F43</sup>60A Visual recording of interviews

- (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

**F43** S. 60A inserted (19.6.2001) by 2001 c. 16, s. 76(1); S.I. 2001/2223, art. 2(a)

### [<sup>F44</sup>60B Notification of decision not to prosecute person interviewed

- (1) This section applies where—
  - (a) a person suspected of the commission of a criminal offence is interviewed by a police officer but is not arrested for the offence, and
  - (b) the police officer in charge of investigating the offence determines that—
    - (i) there is not sufficient evidence to charge the person with an offence, or
    - (ii) there is sufficient evidence to charge the person with an offence but the person should not be charged with an offence or given a caution in respect of an offence.
- (2) A police officer must give the person notice in writing that the person is not to be prosecuted.
- (3) Subsection (2) does not prevent the prosecution of the person for an offence if new evidence comes to light after the notice was given.
- (4) In this section “caution” includes—
  - (a) a conditional caution within the meaning of Part 3 of the Criminal Justice Act 2003;
  - (b) a youth conditional caution within the meaning of Chapter 1 of Part 4 of the Crime and Disorder Act 1998;
  - (c) a youth caution under section 66ZA of that Act.]

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### Textual Amendments

**F44** S. 60B inserted (31.1.2017 for specified purposes, 3.4.2017 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\)](#), [ss. 77](#), [183\(1\)\(5\)\(e\)](#); [S.I. 2017/399](#), [reg. 2](#), [Sch. para. 25](#)

### Modifications etc. (not altering text)

**C48** S. 60B applied (with modifications) (1.4.2018) by [The Welsh Revenue Authority \(Powers to Investigate Criminal Offences\) Regulations 2018 \(S.I. 2018/400\)](#), [regs. 1\(2\)](#), [3\(1\)\(3\)](#), [Sch.](#) (with [regs. 4-8](#))

## 61 Finger-printing.

- (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.
- [<sup>F45</sup>(3) The fingerprints of a person detained at a police station may be taken without the appropriate consent if—
  - (a) he is detained in consequence of his arrest for a recordable offence; and
  - (b) he has not had his fingerprints taken in the course of the investigation of the offence by the police.]
- [<sup>F46</sup>(3A) [<sup>F47</sup>Where a person mentioned in paragraph (a) of subsection (3) or (4) has already had his fingerprints taken in the course of the investigation of the offence by the police], 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).]
- [<sup>F48</sup>(4) The fingerprints of a person detained at a police station may be taken 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) he has not had his fingerprints taken in the course of the investigation of the offence by the police.]
- [<sup>F49</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

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- (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 [F50 subsection (4A)] above orally or in writing but, if he gives it orally, he shall confirm it in writing as soon as is practicable.
- [F51(5A) The fingerprints of a person may be taken without the appropriate consent if (before or after the coming into force of this subsection) he has been arrested for a recordable offence and released and—
- (a) F52... he has not had his fingerprints taken in the course of the investigation of the offence by the police; or
  - (b) F53... he has had his fingerprints taken in the course of that investigation [F54but
    - (i) subsection (3A)(a) or (b) above applies, or
    - (ii) subsection (5C) below applies.]]
- [F55(5B) The fingerprints of a person not detained at a police station may be taken without the appropriate consent if (before or after the coming into force of this subsection) he has been charged with a recordable offence or informed that he will be reported for such an offence and—
- (a) he has not had his fingerprints taken in the course of the investigation of the offence by the police; or
  - (b) he has had his fingerprints taken in the course of that investigation [F56but
    - (i) subsection (3A)(a) or (b) above applies, or
    - (ii) subsection (5C) below applies.]]
- [F57(5C) This subsection applies where—
- (a) the investigation was discontinued but subsequently resumed, and
  - (b) before the resumption of the investigation the fingerprints were destroyed pursuant to section 63D(3) below.]

[F58(6) Subject to this section, the fingerprints of a person may be taken without the appropriate consent if (before or after the coming into force of this subsection)—

    - (a) he has been convicted of a recordable offence, [F59 or ]
    - (b) he has been given a caution in respect of a recordable offence which, at the time of the caution, he has admitted, [F60 and ]
    - F61(c) .....  
 either of the conditions mentioned in subsection (6ZA) below is met.

(6ZA) The conditions referred to in subsection (6) above are—

    - (a) the person has not had his fingerprints taken since he was convicted, [F62or cautioned];
    - (b) he has had his fingerprints taken since then but subsection (3A)(a) or (b) above applies.

(6ZB) Fingerprints may only be taken as specified in subsection (6) above with the authorisation of an officer of at least the rank of inspector.

(6ZC) An officer may only give an authorisation under subsection (6ZB) above if the officer is satisfied that taking the fingerprints is necessary to assist in the prevention or detection of crime.]

[F63(6A) A constable may take a person's fingerprints without the appropriate consent if—

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- (a) the constable reasonably suspects that the person is committing or attempting to commit an offence, or has committed or attempted to commit an offence; and
- (b) either of the two conditions mentioned in subsection (6B) is met.

(6B) The conditions are that—

- (a) the name of the person is unknown to, and cannot be readily ascertained by, the constable;
- (b) the constable has reasonable grounds for doubting whether a name furnished by the person as his name is his real name.

(6C) The taking of fingerprints by virtue of subsection (6A) does not count for any of the purposes of this Act as taking them in the course of the investigation of an offence by the police.]

[<sup>F64</sup>(6D) Subject to this section, the fingerprints of a person may be taken without the appropriate consent if—

- (a) under the law in force in a country or territory outside England and Wales the person has been convicted of an offence under that law (whether before or after the coming into force of this subsection and whether or not he has been punished for it);
- (b) the act constituting the offence would constitute a qualifying offence if done in England and Wales (whether or not it constituted such an offence when the person was convicted); and
- (c) either of the conditions mentioned in subsection (6E) below is met.

(6E) The conditions referred to in subsection (6D)(c) above are—

- (a) the person has not had his fingerprints taken on a previous occasion under subsection (6D) above;
- (b) he has had his fingerprints taken on a previous occasion under that subsection but subsection (3A)(a) or (b) above applies.

(6F) Fingerprints may only be taken as specified in subsection (6D) above with the authorisation of an officer of at least the rank of inspector.

(6G) An officer may only give an authorisation under subsection (6F) above if the officer is satisfied that taking the fingerprints is necessary to assist in the prevention or detection of crime.]

[<sup>F65</sup>(7) Where a person's fingerprints are taken without the appropriate consent by virtue of any power conferred by this section—

- (a) before the fingerprints are taken, the person shall be informed of—
  - (i) the reason for taking the fingerprints;
  - (ii) the power by virtue of which they are taken; and
  - (iii) in a case where the authorisation of the court or an officer is required for the exercise of the power, the fact that the authorisation has been given; and
- (b) those matters shall be recorded as soon as practicable after the fingerprints are taken.]

[<sup>F66</sup>(7A) If a person's fingerprints are taken at a police station, [<sup>F67</sup>or by virtue of [<sup>F68</sup>subsection (4A), (6A)] at a place other than a police station,] whether with or without the appropriate consent—

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- (a) before the fingerprints are taken, an officer [<sup>F69</sup>(or, where by virtue of subsection (4A), (6A) or (6BA) the fingerprints are taken at a place other than a police station, the constable taking the fingerprints)] 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, [<sup>F70</sup>the matters referred to in subsection (7)(a)(i) to (iii) above][<sup>F71</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>F72</sup>(8A) . . . . .
- [<sup>F73</sup>(8B) Any power under this section to take the fingerprints of a person without the appropriate consent, if not otherwise specified to be exercisable by a constable, shall be exercisable by a 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>F74</sup>(b) applies to a person arrested or detained under the terrorism provisions [<sup>F75</sup>or detained under Part 1 of Schedule 3 to the Counter-Terrorism and Border Security Act 2019].]
- [<sup>F76</sup>(10) Nothing in this section applies to a person arrested under an extradition arrest power.]

#### Textual Amendments

- F45** S. 61(3) substituted (5.4.2004) by [Criminal Justice Act 2003 \(c. 44\)](#), **ss. 9(2)**, 336; S.I. 2004/829, **art. 2(1)(2)(a)** (subject to [art. 2\(3\)-\(6\)](#))
- F46** S. 61(3A) inserted (1.1.2003) by [2001 c. 16](#), s. 78(3); S.I. 2002/3032, **art. 2(a)**
- F47** Words in s. 61(3A) substituted (5.4.2004) by [Criminal Justice Act 2003 \(c. 44\)](#), **ss. 9(3)**, 336; S.I. 2004/829, **art. 2(1)(2)(a)** (subject to [art. 2\(3\)-\(6\)](#))
- F48** S. 61(4) substituted (5.4.2004) by [Criminal Justice Act 2003 \(c. 44\)](#), **ss. 9(2)**, 336; S.I. 2004/829, **art. 2(1)(2)(a)** (subject to [art. 2\(3\)-\(6\)](#))
- F49** S. 61(4A)(4B) inserted (1.1.2003) by [2001 c. 16](#), s. 78(4); S.I. 2002/3032, **art. 2(a)**
- F50** Words in s. 61(5) substituted (5.4.2004) by [Criminal Justice Act 2003 \(c. 44\)](#), **ss. 9(4)**, 336; S.I. 2004/829, **art. 2(1)(2)(a)** (subject to [art. 2\(3\)-\(6\)](#))
- F51** S. 61(5A) inserted (7.3.2011) by [Crime and Security Act 2010 \(c. 17\)](#), **ss. 2(1)**, 59(1); S.I. 2011/414, **art. 2(b)**
- F52** Words in s. 61(5A)(a) omitted (31.1.2017 for specified purposes, 3.4.2017 in so far as not already in force) by virtue of [Policing and Crime Act 2017 \(c. 3\)](#), **ss. 59(2)(a)**, 183(1)(5)(e); S.I. 2017/399, **reg. 2**, **Sch. para. 12**
- F53** Words in s. 61(5A)(b) omitted (31.1.2017 for specified purposes, 3.4.2017 in so far as not already in force) by virtue of [Policing and Crime Act 2017 \(c. 3\)](#), **ss. 59(2)(b)**, 183(1)(5)(e); S.I. 2017/399, **reg. 2**, **Sch. para. 12**
- F54** Words in s. 61(5A)(b) substituted (13.5.2014) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), **ss. 144(1)(a)**, 185(1) (with [ss. 21, 33, 42, 58, 75, 93](#)); S.I. 2014/949, **art. 3**, **Sch. para. 13**
- F55** S. 61(5B) inserted (7.3.2011) by [Crime and Security Act 2010 \(c. 17\)](#), **ss. 2(2)**, 59(1); S.I. 2011/414, **art. 2(b)**
- F56** Words in s. 61(5B)(b) substituted (13.5.2014) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), **ss. 144(1)(a)**, 185(1) (with [ss. 21, 33, 42, 58, 75, 93](#)); S.I. 2014/949, **art. 3**, **Sch. para. 13**



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- F57** S. 61(5C) inserted (13.5.2014) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), [ss. 144\(1\)\(b\)](#), [185\(1\)](#) (with [ss. 21, 33, 42, 58, 75, 93](#)); S.I. 2014/949, art. 3, Sch. para. 13
- F58** S. 61(6)-(6ZC) substituted for s. 61(6) (7.3.2011) by [Crime and Security Act 2010 \(c. 17\)](#), [ss. 2\(3\)](#), [59\(1\)](#); S.I. 2011/414, art. 2(b)
- F59** Word in s. 61(6)(a) inserted (8.4.2013) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 24 para. 7\(2\)\(a\)](#) (with s. 135(4)); S.I. 2013/453, art. 4(f)
- F60** Word in s. 61(6)(b) substituted (8.4.2013) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 24 para. 7\(2\)\(b\)](#) (with s. 135(4)); S.I. 2013/453, art. 4(f)
- F61** S. 61(6)(c) omitted (8.4.2013) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 24 para. 7\(2\)\(c\)](#) (with s. 135(4)); S.I. 2013/453, art. 4(f)
- F62** Words in s. 61(6ZA)(a) substituted (8.4.2013) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 24 para. 7\(3\)](#) (with s. 135(4)); S.I. 2013/453, art. 4(f)
- F63** S. 61(6A)-(6C) inserted (7.3.2011) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), [ss. 117\(2\)](#), [178\(8\)](#); S.I. 2011/410, art. 2(a)
- F64** S. 61(6D)-(6G) inserted (7.3.2011) by [Crime and Security Act 2010 \(c. 17\)](#), [ss. 3\(1\)](#), [59\(1\)](#); S.I. 2011/414, art. 2(b)
- F65** S. 61(7) substituted (7.3.2011) by [Crime and Security Act 2010 \(c. 17\)](#), [ss. 4\(1\)](#), [59\(1\)](#); S.I. 2011/414, art. 2(b)
- F66** 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](#)
- F67** Words in s. 61(7A) inserted (7.3.2011) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), [ss. 117\(4\)\(a\)](#), [178\(8\)](#); S.I. 2011/410, art. 2(b)
- F68** Words in s. 61(7A) substituted (7.3.2011) by [Crime and Security Act 2010 \(c. 17\)](#), [ss. 4\(2\)\(a\)](#), [59\(1\)](#); S.I. 2011/414, art. 2(b)
- F69** S. 61(7A)(a): By [Crime and Security Act 2010 \(c. 17\)](#), [ss. 4\(2\)\(b\)](#), [59\(1\)](#); S.I. 2011/414, art. 2(b), it is provided that the words "(or, in a subsection (6A) case, the constable)" (which were inserted (prosp.) by [2005 c. 15](#), s. 117(4)(b)) be substituted (7.3.2011)
- F70** Words in s. 61(8) substituted (7.3.2011) by [Crime and Security Act 2010 \(c. 17\)](#), [ss. 4\(3\)](#), [59\(1\)](#); S.I. 2011/414, art. 2(b)
- F71** 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](#)
- F72** S. 61(8A) repealed (12.1.2010) by [Policing and Crime Act 2009 \(c. 26\)](#), [ss. 112\(1\)\(2\)](#), [116\(6\)](#), Sch. 7 para. 127(2), [Sch. 8 Pt. 13](#)
- F73** S. 61(8B) substituted (7.3.2011) by [Crime and Security Act 2010 \(c. 17\)](#), [ss. 2\(4\)](#), [59\(1\)](#); S.I. 2011/414, art. 2(b)
- F74** 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
- F75** Words in s. 61(9)(b) inserted (13.8.2020) by [Counter-Terrorism and Border Security Act 2019 \(c. 3\)](#), s. 27(2)(d), [Sch. 4 para. 18\(5\)](#); S.I. 2020/792, reg. 2(i)
- F76** S. 61(10) inserted (1.1.2004) by [Extradition Act 2003 \(c. 41\)](#), [ss. 169\(3\)](#), [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)))

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

- C49** S. 61 applied (with modifications) by S.I. 1985/1882, [art. 6](#)
- C50** 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.](#)
- C51** 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\(a\)\(ii\)\(d\)](#)
- C52** S. 61 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](#)

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- C53** 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)**
- C54** 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)**

#### Marginal Citations

**M5** 1971 c. 77.

### [<sup>F77</sup> 61A Impressions of footwear

- (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 [<sup>F78</sup> or detained under Part 1 of Schedule 3 to the Counter-Terrorism and Border Security Act 2019];
  - (b) arrested under an extradition arrest power.]

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### Textual Amendments

- F77** 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\(1\)\(p\)](#)
- F78** Words in s. 61A(8)(a) inserted (13.8.2020) by [Counter-Terrorism and Border Security Act 2019 \(c. 3\)](#), [s. 27\(2\)\(d\)](#), [Sch. 4 para. 18\(6\)](#); [S.I. 2020/792](#), [reg. 2\(i\)](#)

### Modifications etc. (not altering text)

- C55** 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\(q\)\(r\)](#)
- C56** 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.

- (1) [<sup>F79</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 [<sup>F80</sup>inspector] authorises it to be taken; and
  - if the appropriate consent is given.

[<sup>F81</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 [<sup>F80</sup>inspector] authorises it to be taken; and
- if the appropriate consent is given.]

- (2) An officer may only give an authorisation [<sup>F82</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>F83</sup>recordable offence]; and
  - for believing that the sample will tend to confirm or disprove his involvement.

[<sup>F84</sup>(2A) An intimate sample may be taken from a person where—

- two or more non-intimate samples suitable for the same means of analysis have been taken from the person under section 63(3E) below (persons convicted of offences outside England and Wales etc ) but have proved insufficient;
- a police officer of at least the rank of inspector authorises it to be taken; and
- the appropriate consent is given.

(2B) An officer may only give an authorisation under subsection (2A) above if the officer is satisfied that taking the sample is necessary to assist in the prevention or detection of crime.]

- (3) An officer may give an authorisation under subsection (1) [<sup>F85</sup>or (1A)][<sup>F86</sup>or (2A)] above 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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- (4) The appropriate consent must be given in writing.
- [<sup>F87</sup>(5) Before an intimate sample is taken from a person, an officer shall inform him of the following—
- (a) the reason for taking the sample;
  - (b) the fact that authorisation has been given and the provision of this section under which it has been given; and
  - (c) if the sample was taken at a police station, the fact that the sample may be the subject of a speculative search.
- (6) The reason referred to in subsection (5)(a) above must include, except in a case where the sample is taken under subsection (2A) above, a statement of the nature of the offence in which it is suspected that the person has been involved.
- (7) After an intimate sample has been taken from a person, the following shall be recorded as soon as practicable—
- (a) the matters referred to in subsection (5)(a) and (b) above;
  - (b) if the sample was taken at a police station, the fact that the person has been informed as specified in subsection (5)(c) above; and
  - (c) the fact that the appropriate consent was given.]

(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>F88</sup>... above shall be recorded in his custody record.

[<sup>F89</sup>(9) In the case of an intimate sample which is a dental impression, the sample may be taken from a person only by a registered dentist.

(9A) In the case of any other form of intimate sample, except in the case of a sample of urine, the sample may be taken from a person only by—

    - (a) a registered medical practitioner; or
    - (b) a registered health care professional.]

(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—
        - <sup>F90</sup>(i) .....
        - (ii) whether there is a case to answer; and
      - [<sup>F91</sup>(aa) a judge, in deciding whether to grant an application made by the accused under [<sup>F92</sup>paragraph 2 of Schedule 3 to the Crime and Disorder Act 1998 (applications for dismissal); 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>F93</sup>... .

(11) Nothing in this section [<sup>F94</sup>applies to the taking of a specimen for the purposes of any of the provisions of]] [<sup>F95</sup>sections 4 to 11 of the Road Traffic Act 1988]] [<sup>F96</sup>or of sections 26 to 38 of the Transport and Works Act 1992] .

[<sup>F97</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.]

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[<sup>F98</sup>(13) Nothing in this section applies to a person detained under Part 1 of Schedule 3 to the Counter-Terrorism and Border Security Act 2019; and subsection (1A) does not apply where the non-intimate samples mentioned in that subsection were taken under Part 2 of that Schedule.]

#### Textual Amendments

- F79** 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)**
- F80** Word in s. 62(1)(a)(1A)(a) substituted (1.4.2003) by 2001 c. 16, ss. 80(1), 138(2); S.I. 2003/708, **art. 2(h)**
- F81** S. 62(1A) inserted (10.4.1995) by 1994 c. 33, s. 54(2); S.I. 1995/721, art. 2, **Sch.**
- F82** Words in s. 62(2) inserted (10.4.1995) by 1994 c. 33, s. 54(3)(a); S.I. 1995/721, art. 2, **Sch.**
- F83** 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.**
- F84** S. 62(2A)(2B) inserted (7.3.2011) by Crime and Security Act 2010 (c. 17), ss. 3(2), 59(1); S.I. 2011/414, art. 2(b)
- F85** Words in s. 62(3) inserted (10.4.1995) by 1994 c. 33, s. 54(4); S.I. 1995/721, art. 2, **Sch.**
- F86** Words in s. 62(3) inserted (7.3.2011) by Crime and Security Act 2010 (c. 17), ss. 3(3), 59(1); S.I. 2011/414, art. 2(b)
- F87** S. 62(5)-(7) substituted for s. 62(5)-(7A) (7.3.2011) by Crime and Security Act 2010 (c. 17), ss. 4(4), 59(1); S.I. 2011/414, art. 2(b)
- F88** Words in s. 62(8) repealed (7.3.2011) by Crime and Security Act 2010 (c. 17), ss. 4(5), 59(1); S.I. 2011/414, art. 2(b)
- F89** S. 62(9)(9A) substituted (1.4.2003) for s. 62(9) by Police Reform Act 2002 (c. 30), ss. 54(1), 108(2)-(5); S.I. 2003/808, **art. 2(e)**
- F90** S. 62(10)(a)(i) repealed (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 3 para. 56(2)(a)**, **Sch. 37 Pt. 4**; S.I. 2012/1320, art. 4(1)(c)(d)(2)(3) (with art. 5) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4); S.I. 2012/2574, art. 2(2)(3)(c)(d), **Sch.** (with arts. 34) (as amended (4.11.2012) by S.I. 2012/2761, art. 2) (with S.I. 2013/1103, art. 4); S.I. 2013/1103, art. 2(1)(c)(d)(2)(3) (with arts. 34)
- F91** 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
- F92** Words in s. 62(10)(aa) substituted for s. 62(10)(aa)(i)(ii) (9.5.2005 for specified purposes, 18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 3 para. 56(2)(b)**; S.I. 2005/1267, art. 2(1)(2)(a), **Sch. Pt. 1**; S.I. 2012/1320, art. 4(1)(c)(2)(3) (with art. 5) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4); S.I. 2012/2574, art. 2(2)(3)(c), **Sch.** (with arts. 34) (as amended (4.11.2012) by S.I. 2012/2761, art. 2) (with S.I. 2013/1103, art. 4); S.I. 2013/1103, art. 2(1)(c)(2)(3) (with arts. 34)
- F93** 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
- F94** Words in s. 62(11) substituted (1.4.2003) by Police Reform Act 2002 (c. 30), ss. 53(2)(a), 108(2)-(5); S.I. 2003/808, **art. 2(d)**
- F95** Words substituted by Road Traffic (Consequential Provisions) Act 1988 (c. 54, SIF 107:1), s. 4, **Sch. 3 para. 27(4)**
- F96** Words in s. 62(11) inserted (1.4.2003) by Police Reform Act 2002 (c. 30), ss. 53(2)(b), 108(2)-(5); S.I. 2003/808, **art. 2(d)**
- F97** 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**
- F98** S. 62(13) inserted (13.8.2020) by Counter-Terrorism and Border Security Act 2019 (c. 3), s. 27(2)(d), **Sch. 4 para. 18(7)**; S.I. 2020/792, reg. 2(i)

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

- C57** 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.**
- C58** 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**
- C59** S. 62 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**
- C60** S. 62 applied (with modifications) (4.11.2015) by The Police and Criminal Evidence Act 1984 (Application to Revenue and Customs) Order 2015 (S.I. 2015/1783), arts. 1, 3(1), **Sch. 1** (with art. 3(2), (3), 4-19, Sch. 2)
- C61** S. 62(1)(2) applied (with modifications) (25.6.2013) by The Police and Criminal Evidence Act 1984 (Application to immigration officers and designated customs officials in England and Wales) Order 2013 (S.I. 2013/1542), arts. 1, 12(2)-(4), **Sch. 2** (with arts. 13-31)
- C62** S. 62(3)-(12) applied (with modifications) (25.6.2013) by The Police and Criminal Evidence Act 1984 (Application to immigration officers and designated customs officials in England and Wales) Order 2013 (S.I. 2013/1542), arts. 1, 12(2)-(4), **Sch. 2** (with arts. 13-31)

### **63 Other samples.**

- (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.
- [<sup>F99</sup>(2A) A non-intimate sample may be taken from a person without the appropriate consent if two conditions are satisfied.
- (2B) The first is that the person is in police detention in consequence of his arrest for a recordable offence.
- (2C) The second is that—
- (a) he has not had a non-intimate sample of the same type and from the same part of the body taken in the course of the investigation of the offence by the police, or
  - (b) he has had such a sample taken but it proved insufficient.]
- (3) A non-intimate sample may be taken from a person without the appropriate consent if—
- (a) he <sup>F100</sup> . . . is being held in custody by the police on the authority of a court; and
  - (b) an officer of at least the rank of [<sup>F101</sup>inspector] authorises it to be taken without the appropriate consent.
- [<sup>F102</sup>(3ZA) A non-intimate sample may be taken from a person without the appropriate consent if (before or after the coming into force of this subsection) he has been arrested for a recordable offence and released and—



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- (a) <sup>F103</sup>... he has not had a non-intimate sample of the same type and from the same part of the body taken from him in the course of the investigation of the offence by the police; or
- (b) <sup>F104</sup>... he has had a non-intimate sample taken from him in the course of that investigation but—
  - (i) it was not suitable for the same means of analysis, or
  - (ii) it proved insufficient.], or
  - <sup>F105</sup>(iii) subsection (3AA) below applies.]

<sup>F106</sup>(3A) A non-intimate sample may be taken from a person (whether or not he is in police detention or held in custody by the police on the authority of a court) without the appropriate consent if he has been charged with a recordable offence or informed that he will be reported for such an offence and—

- (a) he has not had a non-intimate sample taken from him in the course of the investigation of the offence by the police; or
- (b) he has had a non-intimate sample taken from him in the course of that investigation but—
  - (i) it was not suitable for the same means of analysis, or
  - (ii) it proved <sup>F107</sup>insufficient, or
  - (iii) subsection (3AA) below applies; or]
- (c) he has had a non-intimate sample taken from him in the course of that investigation and—
  - (i) the sample has been destroyed pursuant to section <sup>F108</sup> 63R] below or any other enactment, and
  - (ii) it is disputed, in relation to any proceedings relating to the offence, whether a DNA profile relevant to the proceedings is derived from the sample.]

<sup>F109</sup>(3AA) This subsection applies where the investigation was discontinued but subsequently resumed, and before the resumption of the investigation—

- (a) any DNA profile derived from the sample was destroyed pursuant to section 63D(3) below, and
- (b) the sample itself was destroyed pursuant to section 63R(4), (5) or (12) below.]

<sup>F110</sup>(3B) Subject to this section, a non-intimate sample may be taken from a person without the appropriate consent if (before or after the coming into force of this subsection)—

- (a) he has been convicted of a recordable offence, <sup>F111</sup> or]
- (b) he has been given a caution in respect of a recordable offence which, at the time of the caution, he has admitted, <sup>F112</sup> and]

<sup>F113</sup>(c) .....  
either of the conditions mentioned in subsection (3BA) below is met.

(3BA) The conditions referred to in subsection (3B) above are—

- (a) a non-intimate sample has not been taken from the person since he was convicted <sup>F114</sup> or cautioned];
- (b) such a sample has been taken from him since then but—
  - (i) it was not suitable for the same means of analysis, or
  - (ii) it proved insufficient.

(3BB) A non-intimate sample may only be taken as specified in subsection (3B) above with the authorisation of an officer of at least the rank of inspector.



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- (3BC) An officer may only give an authorisation under subsection (3BB) above if the officer is satisfied that taking the sample is necessary to assist in the prevention or detection of crime.]
- [<sup>F115</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).]
- [<sup>F116</sup>(3E) Subject to this section, a non-intimate sample may be taken without the appropriate consent from a person if—
- (a) under the law in force in a country or territory outside England and Wales the person has been convicted of an offence under that law (whether before or after the coming into force of this subsection and whether or not he has been punished for it);
  - (b) the act constituting the offence would constitute a qualifying offence if done in England and Wales (whether or not it constituted such an offence when the person was convicted); and
  - (c) either of the conditions mentioned in subsection (3F) below is met.
- (3F) The conditions referred to in subsection (3E)(c) above are—
- (a) the person has not had a non-intimate sample taken from him on a previous occasion under subsection (3E) above;
  - (b) he has had such a sample taken from him on a previous occasion under that subsection but—
    - (i) the sample was not suitable for the same means of analysis, or
    - (ii) it proved insufficient.
- (3G) A non-intimate sample may only be taken as specified in subsection (3E) above with the authorisation of an officer of at least the rank of inspector.
- (3H) An officer may only give an authorisation under subsection (3G) above if the officer is satisfied that taking the sample is necessary to assist in the prevention or detection of crime.]
- (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>F117</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>F118</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.]

[<sup>F119</sup>(6) Where a non-intimate sample is taken from a person without the appropriate consent by virtue of any power conferred by this section—

    - (a) before the sample is taken, an officer shall inform him of—

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- (i) the reason for taking the sample;
  - (ii) the power by virtue of which it is taken; and
  - (iii) in a case where the authorisation of an officer is required for the exercise of the power, the fact that the authorisation has been given; and
- (b) those matters shall be recorded as soon as practicable after the sample is taken.
- (7) The reason referred to in subsection (6)(a)(i) above must include, except in a case where the non-intimate sample is taken under subsection (3B) or (3E) above, a statement of the nature of the offence in which it is suspected that the person has been involved.]
- [<sup>F120</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
  - (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 [<sup>F121</sup>subsection (6) or (8B)] above shall be recorded in his custody record.
- [<sup>F122</sup>(9ZA) The power to take a non-intimate sample from a person without the appropriate consent shall be exercisable by any constable.]
- [<sup>F123</sup>(9A) Subsection (3B) above shall not apply to
- [<sup>F124</sup>(a) any person convicted before 10th April 1995 unless he is a person to whom section 1 of the Criminal Evidence (Amendment) Act 1997 applies (persons imprisoned or detained by virtue of pre-existing conviction for sexual offence etc.).][<sup>F125</sup>; or
  - (b) a person given a caution before 10th April 1995.]
- [<sup>F126</sup>(10) Nothing in this section applies to a person arrested or detained under the terrorism provisions [<sup>F127</sup>or detained under Part 1 of Schedule 3 to the Counter-Terrorism and Border Security Act 2019].]
- [<sup>F128</sup>(11) Nothing in this section applies to a person arrested under an extradition arrest power.]

#### Textual Amendments

- F99** S. 63(2A)-(2C) inserted (5.4.2004) by Criminal Justice Act 2003 (c. 44), ss. 10(2), 336; S.I. 2004/829, art. 2(1)(2)(a) (subject to art. 2(3)-(6))
- F100** Words in s. 63(3)(a) repealed (5.4.2004) by Criminal Justice Act 2003 (c. 44), ss. 10(3), 332, 336, Sch. 37 Pt. 1; S.I. 2004/829, art. 2(1)(2)(a)(i)(i) (subject to art. 2(3)-(6))
- F101** Word in s. 63(3)(b) substituted (1.4.2003) by 2001 c. 16, ss. 80(1), 138(2); S.I. 2003/708, art. 2(h)
- F102** S. 63(3ZA) inserted (7.3.2011) by Crime and Security Act 2010 (c. 17), ss. 2(5), 59(1); S.I. 2011/414, art. 2(b)
- F103** Words in s. 63(3ZA)(a) omitted (31.1.2017 for specified purposes, 3.4.2017 in so far as not already in force) by virtue of Policing and Crime Act 2017 (c. 3), ss. 59(3)(a), 183(1)(5)(e); S.I. 2017/399, reg. 2, Sch. para. 12
- F104** Words in s. 63(3ZA)(b) omitted (31.1.2017 for specified purposes, 3.4.2017 in so far as not already in force) by virtue of Policing and Crime Act 2017 (c. 3), ss. 59(3)(b), 183(1)(5)(e); S.I. 2017/399, reg. 2, Sch. para. 12

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Text here

- F105** S. 63(3ZA)(b)(iii) and word inserted (13.5.2014) by Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), **ss. 144(2)(a)**, 185(1) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2014/949, art. 3, Sch. para. 13
- F106** S. 63(3A) substituted (7.3.2011) by Crime and Security Act 2010 (c. 17), **ss. 2(6)**, 59(1); S.I. 2011/414, art. 2(b)
- F107** Words in s. 63(3A)(b) substituted (13.5.2014) by Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), **ss. 144(2)(b)**, 185(1) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2014/949, art. 3, Sch. para. 13
- F108** Word in s. 63(3A)(c)(i) substituted (31.10.2013) by Protection of Freedoms Act 2012 (c. 9), s. 120, **Sch. 9 para. 3(2)** (with s. 97); S.I. 2013/2104, art. 3(c)
- F109** S. 63(3AA) inserted (13.5.2014) by Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), **ss. 144(2)(c)**, 185(1) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2014/949, art. 3, Sch. para. 13
- F110** S. 63(3B)-(3BC) substituted for s. 63(3B) (7.3.2011) by Crime and Security Act 2010 (c. 17), **ss. 2(7)**, 59(1); S.I. 2011/414, art. 2(b)
- F111** Word in s. 63(3B)(a) inserted (8.4.2013) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 24 para. 8(2)(a)** (with s. 135(4)); S.I. 2013/453, art. 4(f)
- F112** Word in s. 63(3B)(b) substituted (8.4.2013) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 24 para. 8(2)(b)** (with s. 135(4)); S.I. 2013/453, art. 4(f)
- F113** S. 63(3B)(c) omitted (8.4.2013) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 24 para. 8(2)(c)** (with s. 135(4)); S.I. 2013/453, art. 4(f)
- F114** Words in s. 63(3BA)(a) substituted (8.4.2013) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 24 para. 8(3)** (with s. 135(4)); S.I. 2013/453, art. 4(f)
- F115** S. 63(3C) inserted (19.3.1997) by 1997 c. 17, s. **2(1)(2)(a)(3)-(7)**
- F116** S. 63(3E)-(3H) inserted (7.3.2011) by Crime and Security Act 2010 (c. 17), **ss. 3(4)**, 59(1); S.I. 2011/414, art. 2(b)
- F117** Words in s. 63(4)(a) substituted (10.4.1995) by 1994 c. 33, s. **55(3)**; S.I. 1995/721, art. 2, **Sch.**
- F118** S. 63(5A) inserted (1.1.2003) by 2001 c. 16, s. 80(3); S.I. 2002/3032, **art. 2(b)**
- F119** S. 63(6)(7) substituted for s. 63(6)-(8A) (7.3.2011) by Crime and Security Act 2010 (c. 17), ss. 4(7), 59(1); S.I. 2011/414, art. 2(b)
- F120** 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
- F121** Words in s. 63(9) substituted (7.3.2011) by Crime and Security Act 2010 (c. 17), ss. 4(8), 59(1); S.I. 2011/414, art. 2(b)
- F122** 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)**
- F123** 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)**
- F124** Words in s. 63(9A) renumbered as s. 63(9A)(a) (7.3.2011) by Crime and Security Act 2010 (c. 17), **ss. 2(8)(a)**, 59(1); S.I. 2011/414, art. 2(b)
- F125** S. 63(9A)(b) and word inserted (7.3.2011) by Crime and Security Act 2010 (c. 17), **ss. 2(8)(b)**, 59(1); S.I. 2011/414, art. 2(b)
- F126** 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**
- F127** Words in s. 63(10) inserted (13.8.2020) by Counter-Terrorism and Border Security Act 2019 (c. 3), s. 27(2)(d), **Sch. 4 para. 18(8)**; S.I. 2020/792, reg. 2(i)
- F128** S. 63(11) inserted (1.1.2004) by Extradition Act 2003 (c. 41), **ss. 169(4)**, 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)))

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

- C63** 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)

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- 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.**
- C64** 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**
- C65** 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)**
- C66** S. 63 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**
- C67** S. 63 applied (with modifications) (4.11.2015) by The Police and Criminal Evidence Act 1984 (Application to Revenue and Customs) Order 2015 (S.I. 2015/1783), arts. 1, 3(1), **Sch. 1** (with art. 3(2), (3), 4-19, Sch. 2)
- C68** 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>F129</sup>  
**63A** **Fingerprints and samples: supplementary provisions.**

[ Where a person has been arrested on suspicion of being involved in a recordable <sup>F130</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 [<sup>F131</sup>, impressions of footwear] 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 [<sup>F131</sup>, impressions of footwear] or samples to which the person seeking to check has access and which are held by or on behalf of [<sup>F132</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.

<sup>F133</sup>(1ZA) [ Fingerprints taken by virtue of section 61(6A) above may be checked against other fingerprints to which the person seeking to check has access and which are held by or on behalf of 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.]

<sup>F134</sup>(1A) [ In subsection (1) [<sup>F135</sup> and (1ZA) ] above “ relevant law-enforcement authority ” means —

- (a) a police force;
- <sup>F136</sup>(b) the [<sup>F137</sup> National Crime Agency ];
- <sup>F138</sup>(ba) [ the tri-service serious crime unit;]
- (d) a public authority (not falling within paragraphs (a) to [<sup>F139</sup>(ba)]) 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;

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- (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>F134</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;
- <sup>F140</sup>(d) the Police Service of Scotland;]
- (e) the Police Service of Northern Ireland;
- (f) the Police Service of Northern Ireland Reserve;
- (g) the Ministry of Defence Police;
- (h) the <sup>F141</sup>Royal Navy Police];
- (i) the Royal Military Police;
- (j) the Royal Air Force Police;
- <sup>F142</sup>(k) .....
- (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.

[ In subsection (1A) “tri-service serious crime unit” means the unit described in <sup>F143</sup>(1BA) section 375(1A) of the Armed Forces Act 2006.]

<sup>F134</sup>(1C) Where—

- (a) fingerprints <sup>F144</sup>, impressions of footwear] 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 <sup>F145</sup>, of the impressions of footwear] or of the samples and of information derived from them,

the fingerprints <sup>F146</sup>or impressions of footwear] or, as the case may be, those samples and that information may be checked against any of the fingerprints <sup>F147</sup>, impressions of footwear], samples or information mentioned in paragraph (a) or (b) of that subsection.

<sup>F134</sup>(1D) A consent given for the purposes of subsection (1C) above shall not be capable of being withdrawn.]]

[ Where fingerprints or samples have been taken from any person under section 61(6) <sup>F148</sup>(1E) or 63(3B) above (persons convicted etc ), the fingerprints or samples, or information derived from the samples, may be checked against any of the fingerprints, samples or information mentioned in subsection (1)(a) or (b) above.

(1F) Where fingerprints or samples have been taken from any person under section 61(6D), 62(2A) or 63(3E) above (offences outside England and Wales etc ), the fingerprints or

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samples, or information derived from the samples, may be checked against any of the fingerprints, samples or information mentioned in subsection (1)(a) or (b) above. ]

- (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.

[ Where—

- <sup>F149</sup>(3A) (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>F150</sup>section 92 of the Powers of Criminal Courts (Sentencing) Act 2000][<sup>F151</sup>or section 260 of the Sentencing Code,] the sample may be taken at the place where he is so detained.]

- [<sup>F152</sup>(4) Schedule 2A (fingerprinting and samples: power to require attendance at police station) shall have effect.]]

#### Textual Amendments

**F129** S. 63A inserted (10.4.1995) by 1994 c. 33, s. 56; S.I. 1995/721, art. 2, Sch.

**F130** S. 63A(1)(1A) substituted for s. 63A(1) (5.7.1996) by 1996 c. 25, s. 64 (with s. 78(1))

**F131** Words in s. 63A(1) inserted (1.1.2006) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 118(3)(a), 178; S.I. 2005/3495, art. 2(1)(p)

**F132** Words in s. 63A(1)(a) substituted (11.5.2001) by 2001 c. 16, s. 81(1)

**F133** S. 63A(1ZA) inserted (7.3.2011) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 117(5)(a), 178(8); S.I. 2011/410, art. 2(c)

**F134** S. 63A(1A)-(1D) substituted (11.5.2001) for s. 63A(1A) by 2001 c. 16, s. 81(2)

**F135** Words in s. 63A(1A) inserted (7.3.2011) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 117(5)(b), 178(8); S.I. 2011/410, art. 2(c)

**F136** S. 63A(1A)(b) substituted (1.4.2006) for s. 63A(1A)(b)(c) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 59, 178, Sch. 4 para. 46; S.I. 2006/378, art. 4(1), Sch. para. 10 (subject to art. 4(2)-(7))

**F137** Words in s. 63A(1A)(b) substituted (7.10.2013) by Crime and Courts Act 2013 (c. 22), s. 61(2), Sch. 8 para. 186; S.I. 2013/1682, art. 3(v)



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- F138** S. 63A(1A)(ba) inserted (1.5.2022 for specified purposes) by Armed Forces Act 2021 (c. 35), s. 24(1), **Sch. 5 para. 1(2)(a)**; S.I. 2022/471, reg. 2(e)
- F139** Word in s. 63A(1A)(d) substituted (1.5.2022 for specified purposes) by Armed Forces Act 2021 (c. 35), s. 24(1), **Sch. 5 para. 1(2)(b)**; S.I. 2022/471, reg. 2(e)
- F140** S. 63A(1B)(d) substituted (1.4.2013) by The Police and Fire Reform (Scotland) Act 2012 (Consequential Provisions and Modifications) Order 2013 (S.I. 2013/602), art. 1(2), **Sch. 2 para. 19**
- F141** Words in s. 63A(1B)(h) substituted (4.6.2007) by Armed Forces Act 2006 (c. 52), ss. 378, 383, **Sch. 16 para. 100(a)**; S.I. 2007/1442, **art. 2(1)**
- F142** S. 63A(1B)(k) omitted (1.1.2008) by virtue of and repealed (28.3.2009 for certain purposes and otherwise 31.10.2009) Armed Forces Act 2006 (c. 52), ss. 378, 383, **Sch. 16 para. 100(b)**, **Sch. 17**; S.I. 2007/2913, **art. 3**; S.I. 2009/812, **art. 3** (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, **art. 4**
- F143** S. 63A(1BA) inserted (1.5.2022 for specified purposes) by Armed Forces Act 2021 (c. 35), s. 24(1), **Sch. 5 para. 1(3)**; S.I. 2022/471, reg. 2(e)
- F144** Words in s. 63A(1C)(a) inserted (1.1.2006) by Serious Organised Crime and Police Act 2005 (c. 15), **ss. 118(3)(b)(i)**, 178; S.I. 2005/3495, **art. 2(1)(p)**
- F145** Words in s. 63A(1C)(b) inserted (1.1.2006) by Serious Organised Crime and Police Act 2005 (c. 15), **ss. 118(3)(b)(ii)**, 178; S.I. 2005/3495, **art. 2(1)(p)**
- F146** Words in s. 63A(1C) inserted (1.1.2006) by Serious Organised Crime and Police Act 2005 (c. 15), **ss. 118(3)(b)(iii)**, 178; S.I. 2005/3495, **art. 2(1)(p)**
- F147** Words in s. 63A(1C) inserted (1.1.2006) by Serious Organised Crime and Police Act 2005 (c. 15), **ss. 118(3)(b)(iv)**, 178; S.I. 2005/3495, **art. 2(1)(p)**
- F148** S. 63A(1E)(1F) inserted (7.3.2011) by Crime and Security Act 2010 (c. 17), **ss. 5(1)**, 59(1); S.I. 2011/414, **art. 2(b)**
- F149** S. 63A(3A)(3B) inserted (19.3.1997) by 1997 c. 17, **s. 3**
- F150** Words in s. 63A(3B) substituted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), **Sch. 9 para. 97**
- F151** Words in s. 63A(3B) inserted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 78** (with Sch. 27); S.I. 2020/1236, **reg. 2**
- F152** S. 63A(4) substituted for s. 63(4)-(8) (7.3.2011) by Crime and Security Act 2010 (c. 17), **ss. 6(1)**, 59(1); S.I. 2011/414, **art. 2(c)**

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

- C69** 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**)
- C70** S. 63A 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**
- C71** S. 63A amended (1.7.2004) by Railways and Transport Safety Act 2003 (c. 20), ss. 73, 120, **Sch. 5 para. 4(1)(a)(2)** (with s. 72); S.I. 2004/1572, **art. 3(ddd)(jjj)**
- C72** 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.**
- C73** 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.



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### [<sup>F153</sup> 63AA] **Inclusion of DNA profiles on National DNA Database**

- (1) This section applies to a DNA profile which is derived from a DNA sample and which is retained under any power conferred by any of sections 63E to 63L (including those sections as applied by section 63P).
- (2) A DNA profile to which this section applies must be recorded on the National DNA Database.]

#### **Textual Amendments**

**F153** S. 63AA inserted (31.10.2013) by [Protection of Freedoms Act 2012 \(c. 9\), ss. 23, 120](#) (with s. 97); S.I. 2013/1814, art. 2(g)

### [<sup>F154</sup> 63AB] **National DNA Database Strategy Board**

- (1) The Secretary of State must make arrangements for a National DNA Database Strategy Board to oversee the operation of the National DNA Database.
- (2) The National DNA Database Strategy Board must issue guidance about the destruction of DNA profiles which are, or may be, retained under this Part of this Act.
- (3) A chief officer of a police force in England and Wales must act in accordance with guidance issued under subsection (2).
- (4) The National DNA Database Strategy Board may issue guidance about the circumstances in which applications may be made to the Commissioner for the Retention and Use of Biometric Material under section 63G.
- (5) Before issuing any such guidance, the National DNA Database Strategy Board must consult the Commissioner for the Retention and Use of Biometric Material.
- (6) The Secretary of State must publish the governance rules of the National DNA Database Strategy Board and lay a copy of the rules before Parliament.
- (7) The National DNA Database Strategy Board must make an annual report to the Secretary of State about the exercise of its functions.
- (8) The Secretary of State must publish the report and lay a copy of the published report before Parliament.
- (9) The Secretary of State may exclude from publication any part of the report if, in the opinion of the Secretary of State, the publication of that part would be contrary to the public interest or prejudicial to national security.]

#### **Textual Amendments**

**F154** S. 63AB inserted (31.10.2013) by [Protection of Freedoms Act 2012 \(c. 9\), ss. 24, 120](#) (with s. 97); S.I. 2013/1814, art. 2(g)

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**[<sup>F155</sup>63B Testing for presence of Class A drugs.**

(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

- [<sup>F156</sup>(a) either the arrest condition or the charge condition is met;
- (b) both the age condition and the request condition are met; and
- (c) the notification condition is met in relation to the arrest condition, the charge condition or the age condition (as the case may be).]

[ The arrest condition is that the person concerned has been arrested for an offence but <sup>F157</sup>(1A) has not been charged with that offence and either—

- (a) the offence is a trigger offence; or
- (b) a police officer of at least the rank of inspector has reasonable grounds for suspecting that the misuse by that person of a specified Class A drug caused or contributed to the offence and has authorised the sample to be taken.]

(2) [<sup>F158</sup>The charge condition is either]—

- (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.

[<sup>F159</sup>(3) The age condition is—

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

(4) The [<sup>F160</sup>request] condition is that a police officer has requested the person concerned to give the sample.

[ The notification condition is that—

<sup>F161</sup>(4A) (a) the relevant chief officer has been notified by the Secretary of State that appropriate arrangements have been made for the police area as a whole, or for the particular police station, in which the person is in police detention, and

(b) the notice has not been withdrawn.

(4B) For the purposes of subsection (4A) above, appropriate arrangements are arrangements for the taking of samples under this section from whichever of the following is specified in the notification—

- (a) persons in respect of whom the arrest condition is met;
- (b) persons in respect of whom the charge condition is met;
- (c) persons who have not attained the age of 18.]

(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 [<sup>F162</sup>(1A)(b) or] (2)(b) above, inform him of the giving of the authorisation and of the grounds in question.

[ In the case of a person who [<sup>F164</sup>has not attained the age of 18]—

<sup>F163</sup>(5A) (a) the making of the request under subsection (4) above;

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- (b) the giving of the warning and (where applicable) the information under subsection (5) above; and
  - (c) the taking of the sample,
- may not take place except in the presence of an appropriate adult.]

[ If a sample is taken under this section from a person in respect of whom the arrest  
F165(5B) condition is met no other sample may be taken from him under this section during the same continuous period of detention but—

- (a) if the charge condition is also met in respect of him at any time during that period, the sample must be treated as a sample taken by virtue of the fact that the charge condition is met;
- (b) the fact that the sample is to be so treated must be recorded in the person's custody record.

(5C) Despite subsection (1)(a) above, a sample may be taken from a person under this section if—

- (a) he was arrested for an offence (the first offence),
- (b) the arrest condition is met but the charge condition is not met,
- (c) before a sample is taken by virtue of subsection (1) above he would (but for his arrest as mentioned in paragraph (d) below) be required to be released from police detention,
- (d) he continues to be in police detention by virtue of his having been arrested for an offence not falling within subsection (1A) above, and
- (e) the sample is taken before the end of the period of 24 hours starting with the time when his detention by virtue of his arrest for the first offence began.

(5D) A sample must not be taken from a person under this section if he is detained in a police station unless he has been brought before the custody officer.]

(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.

[ The Secretary of State may by order made by statutory instrument amend—

- F166[F167(6A) (a) paragraph (a) of subsection (3) above, by substituting for the age for the time being specified a different age specified in the order, or different ages so specified for different police areas so specified;
- (b) paragraph (b) of that subsection, by substituting for the age for the time being specified a different age specified in the order.]

(6B) A statutory instrument containing an order under subsection (6A) above shall not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.]

(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;

[ for the purpose of informing any decision about the giving of a conditional  
F168(aa) caution under Part 3 of the Criminal Justice Act 2003 [F169] or a youth

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conditional caution under Chapter 1 of Part 4 of the Crime and Disorder Act 1998] 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;

[ for the purpose of an assessment which the person concerned is required to attend by virtue of section 9(2) or 10(2) of the Drugs Act 2005;

(cb) for the purpose of proceedings against the person concerned for an offence under section 12(3) or 14(3) of that Act;]

(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.

[<sup>F172</sup> .....  
<sup>F171</sup>(9)

(10) In this section—

“appropriate adult”, in relation to a person who<sup>F173</sup> has not attained the age of 18], means—

(a) his parent or guardian or, if he is in the care of a local authority or voluntary organisation, a person representing that authority or organisation; or

(b) <sup>F174</sup>a social worker of a local authority . . . ; or

(c) if no person falling within paragraph (a) or (b) is available, any responsible person aged 18 or over who is not a police officer or<sup>F175</sup>a person employed for, or engaged on, police purposes; and “police purposes” has the meaning given by section 101(2) of the Police Act 1996];

“relevant chief officer” means—

(a) in relation to a police area, the chief officer of police of the police force for that police area; or

(b) in relation to a police station, the chief officer of police of the police force for the police area in which the police station is situated.]]

#### Textual Amendments

**F155** 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

**F156** S. 63B(1)(a)-(c) substituted (1.12.2005) for words in s. 63B(1) by Drugs Act 2005 (c. 17), ss. 7(2), 24 (with s. 7(13)(14)); S.I. 2005/3053, art. 2(1)(a)

**F157** S. 63B(1A) inserted (1.12.2005) by Drugs Act 2005 (c. 17), ss. 7(3), 24 (with s. 7(13)(14)); S.I. 2005/3053, art. 2(1)(a)

**F158** Words in s. 63B(2) substituted (1.12.2005) by Drugs Act 2005 (c. 17), ss. 7(4), 24 (with s. 7(13)(14)); S.I. 2005/3053, art. 2(1)(a)

**F159** S. 63B(3) substituted (1.12.2005) by Drugs Act 2005 (c. 17), ss. 7(5), 24 (with s. 7(13)(14)); S.I. 2005/3053, art. 2(1)(a)

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- F160** Word in s. 63B(4) substituted (1.12.2005) by [Drugs Act 2005 \(c. 17\)](#), [ss. 7\(6\)](#), 24 (with s. 7(13)(14)); [S.I. 2005/3053](#), [art. 2\(1\)\(a\)](#)
- F161** S. 63B(4A)(4B) inserted (1.12.2005) by [Drugs Act 2005 \(c. 17\)](#), [ss. 7\(7\)](#), 24; (with s. 7(13)(14)); [S.I. 2005/3053](#), [art. 2\(1\)\(a\)](#)
- F162** Words in s. 63B(5)(b) inserted (1.12.2005) by [Drugs Act 2005 \(c. 17\)](#), [ss. 7\(8\)](#), 24 (with s. 7(13)(14)); [S.I. 2005/3053](#), [art. 2\(1\)\(a\)](#)
- F163** S. 63B(5A) inserted (1.8.2004 for certain purposes and otherwise 1.12.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), [ss. 5\(3\)\(b\)](#), 336; [S.I. 2004/1867](#), [art. 2](#); [S.I. 2005/3055](#), [art. 2](#)
- F164** Words in s. 63B(5A) substituted (31.1.2017 for specified purposes, 3.4.2017 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\)](#), [ss. 73\(3\)\(a\)](#), 183(1)(5)(e); [S.I. 2017/399](#), [reg. 2](#), [Sch. para. 22](#)
- F165** S. 63B(5B)-(5D) inserted (1.12.2005) by [Drugs Act 2005 \(c. 17\)](#), [ss. 7\(9\)](#), 24 (with s. 7(13)(14)); [S.I. 2005/3053](#), [art. 2\(1\)\(a\)](#)
- F166** S. 63B(6A)(6B) inserted (1.8.2004 for certain purposes and otherwise 1.12.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), [ss. 5\(3\)\(c\)](#), 336; [S.I. 2004/1867](#), [art. 2](#); [S.I. 2005/3055](#), [art. 2](#)
- F167** S. 63B(6A) substituted (1.12.2005) by [Drugs Act 2005 \(c. 17\)](#), [ss. 7\(10\)](#), 24 (with s. 7(13)(14)); [S.I. 2005/3053](#), [art. 2\(1\)\(a\)](#)
- F168** S. 63B(7)(aa) inserted (1.12.2005) by [Drugs Act 2005 \(c. 17\)](#), [ss. 7\(11\)](#), 24 (with s. 7(13)(14)); [S.I. 2005/3053](#), [art. 2\(1\)\(a\)](#)
- F169** Words in s. 63B(7)(aa) substituted (16.11.2009 in relation to the areas specified in art. 2(2) of the commencing S.I.) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), [ss. 148](#), 153, [Sch. 26 para. 20\(2\)](#); [S.I. 2009/2780](#), [art. 2](#)
- F170** S. 63B(7)(ca)(cb) inserted (1.12.2005) by [Drugs Act 2005 \(c. 17\)](#), [ss. 23](#), 24, [Sch. 1 para. 4](#); [S.I. 2005/3053](#), [art. 2\(1\)\(f\)](#)
- F171** S. 63B(9)(10) inserted (1.8.2004 for certain purposes and otherwise 1.12.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), [ss. 5\(3\)\(d\)](#), 336; [S.I. 2004/1867](#), [art. 2](#); [S.I. 2005/3055](#), [art. 2](#)
- F172** S. 63B(9) repealed (1.12.2005) by [Drugs Act 2005 \(c. 17\)](#), [ss. 7\(9\)](#), 23, 24 (with s. 7(13)(14)); [S.I. 2005/3053](#), [art. 2\(1\)\(a\)\(f\)](#)
- F173** Words in s. 63B(10) substituted (31.1.2017 for specified purposes, 3.4.2017 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\)](#), [ss. 73\(3\)\(b\)](#), 183(1)(5)(e); [S.I. 2017/399](#), [reg. 2](#), [Sch. para. 22](#)
- F174** S. 63B(10): words in definition of "appropriate adult" repealed (1.4.2005 for E. and 1.4.2006 for W.) by [Children Act 2004 \(c. 31\)](#), [ss. 64](#), 67, [Sch. 5 Pt. 4](#); [S.I. 2005/394](#), [art. 2\(2\)\(g\)](#); [S.I. 2006/885](#), [art. 2\(2\)\(h\)](#)
- F175** Words in s. 63B(10)(c) substituted (31.1.2017 for specified purposes, 3.4.2017 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\)](#), [ss. 79\(1\)](#), 183(1)(5)(e); [S.I. 2017/399](#), [reg. 2](#), [Sch. para. 27](#)

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

- C74** 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, 1.4.2005 and 1.12.2005) 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](#); [S.I. 2005/596](#), [art. 2](#); [S.I. 2005/3054](#), [art. 2](#)

#### Marginal Citations

- M9** 1976 c. 63.

#### <sup>F176</sup> 63C Testing for presence of Class A drugs: supplementary.

- (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.

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- (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

**F176** 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

#### Marginal Citations

**M10** 1971 c. 38.

### [<sup>F177</sup>63D Destruction of fingerprints and DNA profiles

- (1) This section applies to—
  - (a) fingerprints—
    - (i) taken from a person under any power conferred by this Part of this Act, or
    - (ii) taken by the police, with the consent of the person from whom they were taken, in connection with the investigation of an offence by the police, and
  - (b) a DNA profile derived from a DNA sample taken as mentioned in paragraph (a)(i) or (ii).
- (2) Fingerprints and DNA profiles to which this section applies (“section 63D material”) must be destroyed if it appears to the responsible chief officer of police that—
  - (a) the taking of the fingerprint or, in the case of a DNA profile, the taking of the sample from which the DNA profile was derived, was unlawful, or
  - (b) the fingerprint was taken, or, in the case of a DNA profile, was derived from a sample taken, from a person in connection with that person's arrest and the arrest was unlawful or based on mistaken identity.

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- (3) In any other case, section 63D material must be destroyed unless it is retained under any power conferred by sections 63E to 63O (including those sections as applied by section 63P).
- (4) Section 63D material which ceases to be retained under a power mentioned in subsection (3) may continue to be retained under any other such power which applies to it.
- (5) Nothing in this section prevents a speculative search, in relation to section 63D material, from being carried out within such time as may reasonably be required for the search if the responsible chief officer of police considers the search to be desirable.]

#### Textual Amendments

**F177** S. 63D inserted (31.10.2013) by [Protection of Freedoms Act 2012 \(c. 9\)](#), **ss. 1**, 120 (with s. 97); S.I. 2013/1814, art. 2(a)

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

**C75** S. 63D applied (with modifications) (4.11.2015) by [The Police and Criminal Evidence Act 1984 \(Application to Revenue and Customs\) Order 2015 \(S.I. 2015/1783\)](#), arts. 1, 3(1), **Sch. 1** (with art. 3(2), (3), 4-19, Sch. 2)

### [<sup>F178</sup> 63E Retention of section 63D material pending investigation or proceedings

- (1) This section applies to section 63D material taken (or, in the case of a DNA profile, derived from a sample taken) in connection with the investigation of an offence in which it is suspected that the person to whom the material relates has been involved.
- (2) The material may be retained until the conclusion of the investigation of the offence or, where the investigation gives rise to proceedings against the person for the offence, until the conclusion of those proceedings.]

#### Textual Amendments

**F178** S. 63E inserted (31.10.2013) by [Protection of Freedoms Act 2012 \(c. 9\)](#), **ss. 2**, 120 (with s. 97); S.I. 2013/1814, art. 2(a)

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

**C76** S. 63E applied (with modifications) (4.11.2015) by [The Police and Criminal Evidence Act 1984 \(Application to Revenue and Customs\) Order 2015 \(S.I. 2015/1783\)](#), arts. 1, 3(1), **Sch. 1** (with art. 3(2), (3), 4-19, Sch. 2)

### [<sup>F179</sup> 63F Retention of section 63D material: persons arrested for or charged with a qualifying offence

- (1) This section applies to section 63D material which—
  - (a) relates to a person who is arrested for, or charged with, a qualifying offence but is not convicted of that offence, and
  - (b) was taken (or, in the case of a DNA profile, derived from a sample taken) in connection with the investigation of the offence.



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- (2) If the person has previously been convicted of a recordable offence which is not an excluded offence, or is so convicted before the material is required to be destroyed by virtue of this section, the material may be retained indefinitely.
- [ In subsection (2), references to a recordable offence include an offence under the law
- <sup>F180</sup>(2A) of a country or territory outside England and Wales where the act constituting the offence would constitute a recordable offence if done in England and Wales (and, in the application of subsection (2) where a person has previously been convicted, this applies whether or not the act constituted such an offence when the person was convicted).]
- (3) Otherwise, material falling within subsection (4) [<sup>F181</sup>, (5) or (5A) ] may be retained until the end of the retention period specified in subsection (6).
- (4) Material falls within this subsection if it—
- (a) relates to a person who is charged with a qualifying offence but is not convicted of that offence, and
  - (b) was taken (or, in the case of a DNA profile, derived from a sample taken) in connection with the investigation of the offence.
- (5) Material falls within this subsection if—
- (a) it relates to a person who is arrested for a qualifying offence [<sup>F182</sup>, other than a terrorism-related qualifying offence,] but is not charged with that offence,
  - (b) it was taken (or, in the case of a DNA profile, derived from a sample taken) in connection with the investigation of the offence, and
  - (c) the Commissioner for the Retention and Use of Biometric Material has consented under section 63G to the retention of the material.
- [ Material falls within this subsection if—
- <sup>F183</sup>(5A) (a) it relates to a person who is arrested for a terrorism-related qualifying offence but is not charged with that offence, and
- (b) it was taken (or, in the case of a DNA profile, derived from a sample taken) in connection with the investigation of the offence.]
- (6) The retention period is—
- (a) in the case of fingerprints, the period of 3 years beginning with the date on which the fingerprints were taken, and
  - (b) in the case of a DNA profile, 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).
- (7) The responsible chief officer of police or a specified chief officer of police may apply to a District Judge (Magistrates' Courts) for an order extending the retention period.
- (8) An application for an order under subsection (7) must be made within the period of 3 months ending on the last day of the retention period.
- (9) An order under subsection (7) may extend the retention period by a period which—
- (a) begins with the end of the retention period, and
  - (b) ends with the end of the period of 2 years beginning with the end of the retention period.

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(10) The following persons may appeal to the Crown Court against an order under subsection (7), or a refusal to make such an order—

- (a) the responsible chief officer of police;
- (b) a specified chief officer of police;
- (c) the person from whom the material was taken.

(11) In this section—

“excluded offence”, in relation to a person, means a recordable offence—

- (a) which—
  - (i) is not a qualifying offence,
  - (ii) is the only recordable offence of which the person has been convicted, and
  - (iii) was committed when the person was aged under 18, and
- (b) for which the person was not given a relevant custodial sentence of 5 years or more,

“relevant custodial sentence” has the meaning given by section 63K(6),

“a specified chief officer of police” means—

- (a) the chief officer of the police force of the area in which the person from whom the material was taken resides, or
- (b) a chief officer of police who believes that the person is in, or is intending to come to, the chief officer's police area.]

[<sup>F184</sup>“terrorism-related qualifying offence” means—

- (a) an offence for the time being listed in section 41(1) of the Counter-Terrorism Act 2008 (see section 65A(2)(r) below), or
- (b) an ancillary offence, as defined by section 65A(5) below, relating to an offence for the time being listed in section 41(1) of that Act.]

[<sup>F185</sup>(12) For the purposes of the definition of “excluded offence” in subsection (11)—

- (a) references to a recordable offence or a qualifying offence include an offence under the law of a country or territory outside England and Wales where the act constituting the offence would constitute a recordable offence or (as the case may be) a qualifying offence if done in England and Wales (whether or not it constituted such an offence when the person was convicted), and
- (b) in the application of paragraph (b) of that definition in relation to an offence under the law of a country or territory outside England and Wales, the reference to a relevant custodial sentence of 5 years or more is to be read as a reference to a sentence of imprisonment or other form of detention of 5 years or more.]

#### Textual Amendments

**F179** S. 63F inserted (31.10.2013) by [Protection of Freedoms Act 2012 \(c. 9\)](#), **ss. 3**, 120 (with s. 97); S.I. 2013/1814, art. 2(a)

**F180** S. 63F(2A) inserted (31.1.2017 for specified purposes, 3.4.2017 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\)](#), **ss. 70(2)**, 183(1)(5)(e); S.I. 2017/399, reg. 2, Sch. para. 20 (with reg. 6)

**F181** Words in s. 63F(3) substituted (13.8.2020) by [Counter-Terrorism and Border Security Act 2019 \(c. 3\)](#), s. 27(2)(b), **Sch. 2 para. 2(2)**; S.I. 2020/792, reg. 2(e)

**F182** Words in s. 63F(5)(a) inserted (13.8.2020) by [Counter-Terrorism and Border Security Act 2019 \(c. 3\)](#), s. 27(2)(b), **Sch. 2 para. 2(3)**; S.I. 2020/792, reg. 2(e)

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- F183** S. 63F(5A) inserted (13.8.2020) by Counter-Terrorism and Border Security Act 2019 (c. 3), s. 27(2)(b), **Sch. 2 para. 2(4)**; S.I. 2020/792, reg. 2(e)
- F184** Words in s. 63F(11) inserted (13.8.2020) by Counter-Terrorism and Border Security Act 2019 (c. 3), s. 27(2)(b), **Sch. 2 para. 2(5)**; S.I. 2020/792, reg. 2(e)
- F185** S. 63F(12) inserted (31.1.2017 for specified purposes, 3.4.2017 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), **ss. 70(3)**, 183(1)(5)(e); S.I. 2017/399, reg. 2, Sch. para. 20 (with reg. 6)

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

- C77** S. 63F(3) modified (2.4.2020) by The Coronavirus (Retention of Fingerprints and DNA Profiles in the Interests of National Security) Regulations 2020 (S.I. 2020/391), regs. 1, **3(2)(b)** (with reg. 5)
- C78** S. 63F(3) modified (1.10.2020) by The Coronavirus (Retention of Fingerprints and DNA Profiles in the Interests of National Security) (No. 2) Regulations 2020 (S.I. 2020/973), regs. 1(1), **3(2)(b)(4)**

**[<sup>F186</sup>63G Retention of section 63D material by virtue of section 63F(5): consent of Commissioner**

- (1) The responsible chief officer of police may apply under subsection (2) or (3) to the Commissioner for the Retention and Use of Biometric Material for consent to the retention of section 63D material which falls within section 63F(5)(a) and (b).
- (2) The responsible chief officer of police may make an application under this subsection if the responsible chief officer of police considers that the material was taken (or, in the case of a DNA profile, derived from a sample taken) in connection with the investigation of an offence where any alleged victim of the offence was, at the time of the offence—
  - (a) under the age of 18,
  - (b) a vulnerable adult, or
  - (c) associated with the person to whom the material relates.
- (3) The responsible chief officer of police may make an application under this subsection if the responsible chief officer of police considers that—
  - (a) the material is not material to which subsection (2) relates, but
  - (b) the retention of the material is necessary to assist in the prevention or detection of crime.
- (4) The Commissioner may, on an application under this section, consent to the retention of material to which the application relates if the Commissioner considers that it is appropriate to retain the material.
- (5) But where notice is given under subsection (6) in relation to the application, the Commissioner must, before deciding whether or not to give consent, consider any representations by the person to whom the material relates which are made within the period of 28 days beginning with the day on which the notice is given.
- (6) The responsible chief officer of police must give to the person to whom the material relates notice of—
  - (a) an application under this section, and
  - (b) the right to make representations.
- (7) A notice under subsection (6) may, in particular, be given to a person by—
  - (a) leaving it at the person's usual or last known address (whether residential or otherwise),

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- (b) sending it to the person by post at that address, or
  - (c) sending it to the person by email or other electronic means.
- (8) The requirement in subsection (6) does not apply if the whereabouts of the person to whom the material relates is not known and cannot, after reasonable inquiry, be ascertained by the responsible chief officer of police.
- (9) An application or notice under this section must be in writing.
- (10) In this section—
- “victim” includes intended victim,
  - “vulnerable adult” means a person aged 18 or over whose ability to protect himself or herself from violence, abuse or neglect is significantly impaired through physical or mental disability or illness, through old age or otherwise, and the reference in subsection (2)(c) to a person being associated with another person is to be read in accordance with section 62(3) to (7) of the Family Law Act 1996.]

#### Textual Amendments

**F186** S. 63G inserted (31.10.2013) by [Protection of Freedoms Act 2012 \(c. 9\), ss. 3, 120](#) (with s. 97); [S.I. 2013/1814, art. 2\(a\)](#)

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

**C79** S. 63G applied (with modifications) (4.11.2015) by [The Police and Criminal Evidence Act 1984 \(Application to Revenue and Customs\) Order 2015 \(S.I. 2015/1783\), arts. 1, 3\(1\), Sch. 1](#) (with art. 3(2), (3), 4-19, Sch. 2)

### [<sup>F187</sup>63H Retention of section 63D material: persons arrested for or charged with a minor offence

- (1) This section applies to section 63D material which—
- (a) relates to a person who—
    - (i) is arrested for or charged with a recordable offence other than a qualifying offence,
    - (ii) if arrested for or charged with more than one offence arising out of a single course of action, is not also arrested for or charged with a qualifying offence, and
    - (iii) is not convicted of the offence or offences in respect of which the person is arrested or charged, and
  - (b) was taken (or, in the case of a DNA profile, derived from a sample taken) in connection with the investigation of the offence or offences in respect of which the person is arrested or charged.
- (2) If the person has previously been convicted of a recordable offence which is not an excluded offence, the material may be retained indefinitely.

[ In subsection (2), the reference to a recordable offence includes an offence under the <sup>F188</sup>(2A) law of a country or territory outside England and Wales where the act constituting the offence would constitute a recordable offence if done in England and Wales (whether or not it constituted such an offence when the person was convicted).]

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(3) In this section “excluded offence” has the meaning given by section 63F(11) [<sup>F189</sup>(read with section 63F(12))].]

#### Textual Amendments

**F187** S. 63H inserted (31.10.2013) by [Protection of Freedoms Act 2012 \(c. 9\), ss. 4, 120](#) (with s. 97); S.I. 2013/1814, art. 2(a)

**F188** S. 63H(2A) inserted (31.1.2017 for specified purposes, 3.4.2017 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\), ss. 70\(4\), 183\(1\)\(5\)\(e\)](#); S.I. 2017/399, reg. 2, Sch. para. 20 (with reg. 6)

**F189** Words in s. 63H(3) inserted (31.1.2017 for specified purposes, 3.4.2017 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\), ss. 70\(5\), 183\(1\)\(5\)\(e\)](#); S.I. 2017/399, reg. 2, Sch. para. 20 (with reg. 6)

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

**C80** S. 63H applied (with modifications) (4.11.2015) by [The Police and Criminal Evidence Act 1984 \(Application to Revenue and Customs\) Order 2015 \(S.I. 2015/1783\)](#), arts. 1, 3(1), **Sch. 1** (with art. 3(2), (3), 4-19, Sch. 2)

### [<sup>F190</sup>63I Retention of material: persons convicted of a recordable offence

- (1) This section applies, subject to subsection (3), to—
- (a) section 63D material which—
    - (i) relates to a person who is convicted of a recordable offence, and
    - (ii) was taken (or, in the case of a DNA profile, derived from a sample taken) in connection with the investigation of the offence, or
  - (b) material taken under section 61(6) or 63(3B) which relates to a person who is convicted of a recordable offence.
- (2) The material may be retained indefinitely.
- (3) This section does not apply to section 63D material to which section 63K applies.]

#### Textual Amendments

**F190** S. 63I inserted (31.10.2013) by [Protection of Freedoms Act 2012 \(c. 9\), ss. 5, 120](#) (with s. 97); S.I. 2013/1814, art. 2(a)

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

**C81** S. 63I applied (with modifications) (4.11.2015) by [The Police and Criminal Evidence Act 1984 \(Application to Revenue and Customs\) Order 2015 \(S.I. 2015/1783\)](#), arts. 1, 3(1), **Sch. 1** (with art. 3(2), (3), 4-19, Sch. 2)

### [<sup>F191</sup>63IARetention of material: persons convicted of an offence outside England and Wales after taking of section 63D material

- (1) This section applies where—
- (a) section 63D material is taken (or, in the case of a DNA profile, derived from a sample taken) in connection with the investigation of an offence,

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- (b) at any time before the material is required to be destroyed by virtue of this Part of this Act, the person is convicted of an offence under the law of a country or territory outside England and Wales, and
  - (c) the act constituting the offence mentioned in paragraph (b) would constitute a recordable offence if done in England and Wales.
- (2) The material may be retained indefinitely.
- (3) This section does not apply where section 63KA applies.]

#### Textual Amendments

**F191** S. 63IA inserted (31.1.2017 for specified purposes, 3.4.2017 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\)](#), **ss. 70(6)**, 183(1)(5)(e); S.I. 2017/399, reg. 2, Sch. para. 20 (with reg. 6)

#### [<sup>F192</sup>63J Retention of material: persons convicted of an offence outside England and Wales]<sup>F193</sup>: other cases]

- (1) This section applies to material falling within subsection (2) relating to a person who is convicted of an offence under the law of any country or territory outside England and Wales.
- (2) Material falls within this subsection if it is—
- (a) fingerprints taken from the person under section 61(6D) (power to take fingerprints without consent in relation to offences outside England and Wales), or
  - (b) a DNA profile derived from a DNA sample taken from the person under section 62(2A) or 63(3E) (powers to take intimate and non-intimate samples in relation to offences outside England and Wales).
- (3) The material may be retained indefinitely.]

#### Textual Amendments

**F192** S. 63J inserted (31.10.2013) by [Protection of Freedoms Act 2012 \(c. 9\)](#), **ss. 6, 120** (with s. 97); S.I. 2013/1814, art. 2(a)

**F193** Words in s. 63J inserted (31.1.2017 for specified purposes, 3.4.2017 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\)](#), **ss. 70(7)**, 183(1)(5)(e); S.I. 2017/399, reg. 2, Sch. para. 20 (with reg. 6)

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

**C82** S. 63J applied (with modifications) (4.11.2015) by [The Police and Criminal Evidence Act 1984 \(Application to Revenue and Customs\) Order 2015 \(S.I. 2015/1783\)](#), arts. 1, 3(1), **Sch. 1** (with art. 3(2), (3), 4-19, Sch. 2)

#### [<sup>F194</sup>63K Retention of section 63D material: exception for persons under 18 convicted of first minor offence

- (1) This section applies to section 63D material which—
- (a) relates to a person who—

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- (i) is convicted of a recordable offence other than a qualifying offence,
  - (ii) has not previously been convicted of a recordable offence, and
  - (iii) is aged under 18 at the time of the offence, and
- (b) was taken (or, in the case of a DNA profile, derived from a sample taken) in connection with the investigation of the offence.

<sup>F195</sup> [ In subsection (1)(a)(ii), the reference to a recordable offence includes an offence (1A) under the law of a country or territory outside England and Wales where the act constituting the offence would constitute a recordable offence if done in England and Wales (whether or not it constituted such an offence when the person was convicted).]

- (2) Where the person is given a relevant custodial sentence of less than 5 years in respect of the offence, the material may be retained until the end of the period consisting of the term of the sentence plus 5 years.
- (3) Where the person is given a relevant custodial sentence of 5 years or more in respect of the offence, the material may be retained indefinitely.
- (4) Where the person is given a sentence other than a relevant custodial sentence in respect of the offence, the material may be retained until—
  - (a) in the case of fingerprints, the end of the period of 5 years beginning with the date on which the fingerprints were taken, and
  - (b) in the case of a DNA profile, the end of the period of 5 years beginning with—
    - (i) the date on which the DNA sample from which the profile was derived was taken, or
    - (ii) if the profile was derived from more than one DNA sample, the date on which the first of those samples was taken.
- (5) But if, before the end of the period within which material may be retained by virtue of this section, the person is again convicted of a recordable offence, the material may be retained indefinitely.

<sup>F196</sup> [ In subsection (5), the reference to a recordable offence includes an offence under the (5A) law of a country or territory outside England and Wales where the act constituting the offence would constitute a recordable offence if done in England and Wales.]

- (6) In this section, “relevant custodial sentence” means any of the following—
  - (a) a custodial sentence within the meaning of section 76 of the Powers of Criminal Courts (Sentencing) Act 2000 [<sup>F197</sup>or section 222 of the Sentencing Code];
  - (b) a sentence of a period of detention and training (excluding any period of supervision) which a person is liable to serve under an order under section 211 of the Armed Forces Act 2006 or a secure training order.]

#### Textual Amendments

**F194** S. 63K inserted (31.10.2013) by [Protection of Freedoms Act 2012 \(c. 9\), ss. 7, 120](#) (with s. 97); S.I. 2013/1814, art. 2(a)

**F195** S. 63K(1A) inserted (31.1.2017 for specified purposes, 3.4.2017 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\), ss. 70\(8\), 183\(1\)\(5\)\(e\)](#); S.I. 2017/399, reg. 2, Sch. para. 20 (with reg. 6)



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**F196** S. 63K(5A) inserted (31.1.2017 for specified purposes, 3.4.2017 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), **ss. 70(9)**, 183(1)(5)(e); S.I. 2017/399, reg. 2, Sch. para. 20 (with reg. 6)

**F197** Words in s. 63K(6)(a) inserted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 79** (with Sch. 27); S.I. 2020/1236, reg. 2

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

**C83** S. 63K applied (with modifications) (4.11.2015) by The Police and Criminal Evidence Act 1984 (Application to Revenue and Customs) Order 2015 (S.I. 2015/1783), arts. 1, 3(1), **Sch. 1** (with art. 3(2), (3), 4-19, Sch. 2)

**[<sup>F198</sup> 63K] Retention of section 63D material under section 63IA: exception for persons under 18 convicted of first minor offence outside England and Wales**

- (1) This section applies where—
  - (a) section 63D material is taken (or, in the case of a DNA profile, derived from a sample taken) in connection with the investigation of an offence,
  - (b) at any time before the material is required to be destroyed by virtue of this Part of this Act, the person is convicted of an offence under the law of a country or territory outside England and Wales,
  - (c) the act constituting the offence mentioned in paragraph (b) would constitute a recordable offence if done in England and Wales but would not constitute a qualifying offence,
  - (d) the person is aged under 18 at the time of the offence mentioned in paragraph (b), and
  - (e) the person has not previously been convicted of a recordable offence.
- (2) In subsection (1)(e), the reference to a recordable offence includes an offence under the law of a country or territory outside England and Wales where the act constituting the offence would constitute a recordable offence if done in England and Wales (whether or not it constituted such an offence when the person was convicted).
- (3) Where the person is sentenced to imprisonment or another form of detention for less than 5 years in respect of the offence mentioned in subsection (1)(b), the section 63D material may be retained until the end of the period consisting of the term of the sentence plus 5 years.
- (4) Where the person is sentenced to imprisonment or another form of detention for 5 years or more in respect of the offence mentioned in subsection (1)(b), the material may be retained indefinitely.
- (5) Where the person is given a sentence other than a sentence of imprisonment or other form of detention in respect of the offence mentioned in subsection (1)(b), the material may be retained until the end of the period of 5 years beginning with the date on which the person was arrested for the offence (or, if the person was not arrested for the offence, the date on which the person was charged with it).
- (6) But if, before the end of the period within which material may be retained by virtue of this section, the person is again convicted of a recordable offence, the material may be retained indefinitely.

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- (7) In subsection (6), the reference to a recordable offence includes an offence under the law of a country or territory outside England and Wales where the act constituting the offence would constitute a recordable offence if done in England and Wales.]

#### Textual Amendments

**F198** S. 63KA inserted (31.1.2017 for specified purposes, 3.4.2017 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\)](#), **ss. 70(10)**, 183(1)(5)(e); S.I. 2017/399, [reg. 2](#), [Sch. para. 20](#) (with [reg. 6](#))

#### [<sup>F199</sup> 63L Retention of section 63D material: persons given a penalty notice

- (1) This section applies to section 63D material which—
- (a) relates to a person who is given a penalty notice under section 2 of the Criminal Justice and Police Act 2001 and in respect of whom no proceedings are brought for the offence to which the notice relates, and
  - (b) was taken (or, in the case of a DNA profile, derived from a sample taken) from the person in connection with the investigation of the offence to which the notice relates.
- (2) The material may be retained—
- (a) in the case of fingerprints, for a period of 2 years beginning with the date on which the fingerprints were taken,
  - (b) in the case of a DNA profile, for a period of 2 years beginning with—
    - (i) the date on which the DNA sample from which the profile was derived was taken, or
    - (ii) if the profile was derived from more than one DNA sample, the date on which the first of those samples was taken.]

#### Textual Amendments

**F199** S. 63L inserted (31.10.2013) by [Protection of Freedoms Act 2012 \(c. 9\)](#), **ss. 8**, 120 (with s. 97); S.I. 2013/1814, [art. 2\(a\)](#)

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

**C84** S. 63L applied (with modifications) (4.11.2015) by [The Police and Criminal Evidence Act 1984 \(Application to Revenue and Customs\) Order 2015 \(S.I. 2015/1783\)](#), [arts. 1](#), 3(1), **Sch. 1** (with [art. 3\(2\)](#), (3), 4-19, [Sch. 2](#))

#### [<sup>F200</sup> 63M Retention of section 63D material for purposes of national security

- (1) Section 63D material may be retained for as long as a national security determination made by [<sup>F201</sup> a ] chief officer of police has effect in relation to it.
- (2) A national security determination is made if [<sup>F202</sup> a ] chief officer of police determines that it is necessary for any section 63D material to be retained for the purposes of national security.
- (3) A national security determination—
- (a) must be made in writing,

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- (b) has effect for a maximum of [<sup>F203</sup>5 years] beginning with the date on which it is made, and
- (c) may be renewed.]

#### Textual Amendments

**F200** S. 63M inserted (31.10.2013) by Protection of Freedoms Act 2012 (c. 9), ss. 9, 120 (with s. 97); S.I. 2013/1814, art. 2(a)

**F201** Word in s. 63M(1) substituted (13.8.2020) by Counter-Terrorism and Border Security Act 2019 (c. 3), s. 27(2)(b), Sch. 2 para. 3(2); S.I. 2020/792, reg. 2(e)

**F202** Word in s. 63M(2) substituted (13.8.2020) by Counter-Terrorism and Border Security Act 2019 (c. 3), s. 27(2)(b), Sch. 2 para. 3(3); S.I. 2020/792, reg. 2(e)

**F203** Words in s. 63M(3)(b) substituted (13.8.2020) by Counter-Terrorism and Border Security Act 2019 (c. 3), s. 27(2)(b), Sch. 2 para. 3(4) (with s. 25(7)(8)); S.I. 2020/792, reg. 2(e)

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

**C85** S. 63M applied (with modifications) (4.11.2015) by The Police and Criminal Evidence Act 1984 (Application to Revenue and Customs) Order 2015 (S.I. 2015/1783), arts. 1, 3(1), Sch. 1 (with art. 3(2), (3), 4-19, Sch. 2)

#### [<sup>F204</sup>63N Retention of section 63D material given voluntarily

- (1) This section applies to the following section 63D material—
  - (a) fingerprints taken with the consent of the person from whom they were taken, and
  - (b) a DNA profile derived from a DNA sample taken with the consent of the person from whom the sample was taken.
- (2) Material to which this section applies may be retained until it has fulfilled the purpose for which it was taken or derived.
- (3) Material to which this section applies which relates to—
  - (a) a person who is convicted of a recordable offence, or
  - (b) a person who has previously been convicted of a recordable offence (other than a person who has only one exempt conviction),may be retained indefinitely.
- (4) For the purposes of subsection (3)(b), a 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.

[ The reference to a recordable offence in subsection (3)(a) includes an offence under <sup>F205</sup>(5) the law of a country or territory outside England and Wales where the act constituting the offence would constitute a recordable offence if done in England and Wales.

- (6) The reference to a recordable offence in subsections (3)(b) and (4), and the reference to a qualifying offence in subsection (4), includes an offence under the law of a country or territory outside England and Wales where the act constituting the offence would constitute a recordable offence or (as the case may be) a qualifying offence if done in England and Wales (whether or not it constituted such an offence when the person was convicted).]]

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#### **Textual Amendments**

**F204** S. 63N inserted (31.10.2013) by [Protection of Freedoms Act 2012 \(c. 9\)](#), **ss. 10**, 120 (with s. 97); S.I. 2013/1814, art. 2(a)

**F205** S. 63N(5)(6) inserted (31.1.2017 for specified purposes, 3.4.2017 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\)](#), **ss. 70(11)**, 183(1)(5)(e); S.I. 2017/399, reg. 2, Sch. para. 20 (with reg. 6)

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

**C86** S. 63N applied (with modifications) (4.11.2015) by [The Police and Criminal Evidence Act 1984 \(Application to Revenue and Customs\) Order 2015 \(S.I. 2015/1783\)](#), arts. 1, 3(1), **Sch. 1** (with art. 3(2), (3), 4-19, Sch. 2)

### [<sup>F206</sup> **63O Retention of section 63D material with consent**

- (1) This section applies to the following material—
  - (a) fingerprints (other than fingerprints taken under section 61(6A)) to which section 63D applies, and
  - (b) a DNA profile to which section 63D applies.
- (2) If the person to whom the material relates consents to material to which this section applies being retained, the material may be retained for as long as that person consents to it being retained.
- (3) Consent given under this section—
  - (a) must be in writing, and
  - (b) can be withdrawn at any time.]

#### **Textual Amendments**

**F206** S. 63O inserted (31.10.2013) by [Protection of Freedoms Act 2012 \(c. 9\)](#), **ss. 11**, 120 (with s. 97); S.I. 2013/1814, art. 2(a)

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

**C87** S. 63O applied (with modifications) (4.11.2015) by [The Police and Criminal Evidence Act 1984 \(Application to Revenue and Customs\) Order 2015 \(S.I. 2015/1783\)](#), arts. 1, 3(1), **Sch. 1** (with art. 3(2), (3), 4-19, Sch. 2)

### [<sup>F207</sup> [<sup>F208</sup> **63P Retention of 63D material in connection with different offence**

- (1) Subsection (2) applies if—
  - (a) section 63D material is taken (or, in the case of a DNA profile, derived from a sample taken) from a person in connection with the investigation of an offence, and
  - (b) the person is subsequently arrested for or charged with a different offence, or convicted of or given a penalty notice for a different offence.
- (2) Sections 63E to 63O and sections 63Q and 63T have effect in relation to the material as if the material were also taken (or, in the case of a DNA profile, derived from a sample taken)—

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- (a) in connection with the investigation of the offence mentioned in subsection (1)(b),
- (b) on the date on which the person was arrested for that offence (or charged with it or given a penalty notice for it, if the person was not arrested).]]

#### Textual Amendments

**F207** S. 63P inserted (31.10.2013) by [Protection of Freedoms Act 2012 \(c. 9\)](#), **ss. 12**, 120 (with s. 97); S.I. 2013/1814, art. 2(a)

**F208** S. 63P substituted (13.5.2014) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), **ss. 145(1)**, 185(1) (with **ss. 21, 33, 42, 58, 75, 93, 145(2)**); S.I. 2014/949, art. 3, Sch. para. 13

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

**C88** S. 63P applied (with modifications) (4.11.2015) by [The Police and Criminal Evidence Act 1984 \(Application to Revenue and Customs\) Order 2015 \(S.I. 2015/1783\)](#), arts. 1, 3(1), **Sch. 1** (with art. 3(2), (3), 4-19, Sch. 2)

### [<sup>F209</sup> **63P** Retention of further sets of fingerprints

- (1) This section applies where section 63D material is or includes a person's fingerprints ("the original fingerprints").
- (2) A constable may make a determination under this section in respect of any further fingerprints taken from the same person ("the further fingerprints") if any of conditions 1 to 3 are met.
- (3) Condition 1 is met if—
  - (a) the further fingerprints are section 63D material, and
  - (b) the further fingerprints or the original fingerprints were taken in connection with a terrorist investigation.
- (4) Condition 2 is met if the further fingerprints were taken from the person in England or Wales under—
  - (a) paragraph 10 of Schedule 8 to the Terrorism Act 2000,
  - (b) paragraph 1 of Schedule 6 to the Terrorism Prevention and Investigation Measures Act 2011, or
  - (c) paragraph 34 of Schedule 3 to the Counter-Terrorism and Border Security Act 2019.
- (5) Condition 3 is met if the further fingerprints—
  - (a) are material to which section 18 of the Counter-Terrorism Act 2008 applies, and
  - (b) are held under the law of England and Wales.
- (6) Where a determination under this section is made in respect of the further fingerprints—
  - (a) the further fingerprints may be retained for as long as the original fingerprints are retained under a power conferred by sections 63E to 63O (including those sections as applied by section 63P), and
  - (b) a requirement under any enactment to destroy the further fingerprints does not apply for as long as their retention is authorised by paragraph (a).

*Status: Point in time view as at 28/06/2022. This version of this part contains provisions that are prospective.*

*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 17 June 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)*

- (7) Subsection (6)(a) does not prevent the further fingerprints being retained after the original fingerprints fall to be destroyed if the continued retention of the further fingerprints is authorised under any enactment.
- (8) A written record must be made of a determination under this section.]

#### Textual Amendments

**F209** S. 63PA inserted (13.8.2020) by [Counter-Terrorism and Border Security Act 2019 \(c. 3\), s. 27\(2\)\(b\), Sch. 2 para. 4; S.I. 2020/792, reg. 2\(e\)](#)

### [<sup>F210</sup> 63Q Destruction of copies of section 63D material

- (1) If fingerprints are required by section 63D to be destroyed, any copies of the fingerprints held by the police must also be destroyed.
- (2) If a DNA profile is required by that section to be destroyed, no copy may be retained by the police except in a form which does not include information which identifies the person to whom the DNA profile relates.]

#### Textual Amendments

**F210** S. 63Q inserted (31.10.2013 for specified purposes, 31.1.2014 in so far as not already in force) by [Protection of Freedoms Act 2012 \(c. 9\), ss. 13, 120 \(with s. 97\); S.I. 2013/1814, arts. 2\(b\), 3\(a\)](#)

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

**C89** S. 63Q applied (with modifications) (4.11.2015) by [The Police and Criminal Evidence Act 1984 \(Application to Revenue and Customs\) Order 2015 \(S.I. 2015/1783\), arts. 1, 3\(1\), Sch. 1 \(with art. 3\(2\), \(3\), 4-19, Sch. 2\)](#)

### [<sup>F211</sup> 63R Destruction of samples

- (1) This section applies to samples—
- (a) taken from a person under any power conferred by this Part of this Act, or
  - (b) taken by the police, with the consent of the person from whom they were taken, in connection with the investigation of an offence by the police.
- (2) Samples to which this section applies must be destroyed if it appears to the responsible chief officer of police that—
- (a) the taking of the samples was unlawful, or
  - (b) the samples were taken from a person in connection with that person's arrest and the arrest was unlawful or based on mistaken identity.
- (3) Subject to this, the rule in subsection (4) or (as the case may be) (5) applies.
- (4) A DNA sample to which this section 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.



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- (5) Any other sample to which this section applies must be destroyed before the end of the period of 6 months beginning with the date on which it was taken.
- (6) The responsible chief officer of police may apply to a District Judge (Magistrates' Courts) for an order to retain a sample to which this section applies beyond the date on which the sample would otherwise be required to be destroyed by virtue of subsection (4) or (5) if—
  - (a) the sample was taken from a person in connection with the investigation of a qualifying offence, and
  - (b) the responsible chief officer of police considers that the condition in subsection (7) is met.
- (7) The condition is that, having regard to the nature and complexity of other material that is evidence in relation to the offence, the sample is likely to be needed in any proceedings for the offence for the purposes of—
  - (a) disclosure to, or use by, a defendant, or
  - (b) responding to any challenge by a defendant in respect of the admissibility of material that is evidence on which the prosecution proposes to rely.
- (8) An application under subsection (6) must be made before the date on which the sample would otherwise be required to be destroyed by virtue of subsection (4) or (5).
- (9) If, on an application made by the responsible chief officer of police under subsection (6), the District Judge (Magistrates' Courts) is satisfied that the condition in subsection (7) is met, the District Judge may make an order under this subsection which—
  - (a) allows the sample to be retained for a period of 12 months beginning with the date on which the sample would otherwise be required to be destroyed by virtue of subsection (4) or (5), and
  - (b) may be renewed (on one or more occasions) for a further period of not more than 12 months from the end of the period when the order would otherwise cease to have effect.
- (10) An application for an order under subsection (9) (other than an application for renewal)

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  - (a) may be made without notice of the application having been given to the person from whom the sample was taken, and
  - (b) may be heard and determined in private in the absence of that person.
- (11) A sample retained by virtue of an order under subsection (9) must not be used other than for the purposes of any proceedings for the offence in connection with which the sample was taken.
- (12) A sample that ceases to be retained by virtue of an order under subsection (9) must be destroyed.
- (13) Nothing in this section prevents a speculative search, in relation to samples to which this section applies, from being carried out within such time as may reasonably be required for the search if the responsible chief officer of police considers the search to be desirable.]

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#### **Textual Amendments**

**F211** S. 63R inserted (31.10.2013 for specified purposes) by [Protection of Freedoms Act 2012 \(c. 9\)](#), **ss. 14, 120** (with s. 97); S.I. 2013/1814, art. 2(c)

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

**C90** S. 63R applied (with modifications) (4.11.2015) by [The Police and Criminal Evidence Act 1984 \(Application to Revenue and Customs\) Order 2015 \(S.I. 2015/1783\)](#), arts. 1, 3(1), **Sch. 1** (with art. 3(2), (3), 4-19, Sch. 2)

### [<sup>F212</sup>**63S Destruction of impressions of footwear**

- (1) This section applies to impressions of footwear—
  - (a) taken from a person under any power conferred by this Part of this Act, or
  - (b) taken by the police, with the consent of the person from whom they were taken, in connection with the investigation of an offence by the police.
- (2) Impressions of footwear to which this section applies must be destroyed unless they are retained under subsection (3).
- (3) Impressions of footwear may be retained for as long as is necessary for purposes related to the prevention or detection of crime, the investigation of an offence or the conduct of a prosecution.]

#### **Textual Amendments**

**F212** S. 63S inserted (31.10.2013) by [Protection of Freedoms Act 2012 \(c. 9\)](#), **ss. 15, 120** (with s. 97); S.I. 2013/1814, art. 2(d)

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

**C91** S. 63S applied (with modifications) (4.11.2015) by [The Police and Criminal Evidence Act 1984 \(Application to Revenue and Customs\) Order 2015 \(S.I. 2015/1783\)](#), arts. 1, 3(1), **Sch. 1** (with art. 3(2), (3), 4-19, Sch. 2)

### [<sup>F213</sup>**63T Use of retained material**

- (1) Any material to which section 63D, 63R or 63S applies 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 by section 63D, 63R or 63S to be destroyed 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 England and Wales or of any country or territory outside England and Wales), or
  - (ii) is, or corresponds to, any conduct which, if it all took place in England and Wales, 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 England and Wales of any crime or suspected crime and to a prosecution brought in respect of any crime in a country or territory outside England and Wales.]

#### Textual Amendments

**F213** S. 63T inserted (31.10.2013) by [Protection of Freedoms Act 2012 \(c. 9\)](#), **ss. 16, 120** (with s. 97); [S.I. 2013/1814](#), art. 2(d)

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

**C92** S. 63T applied (with modifications) (4.11.2015) by [The Police and Criminal Evidence Act 1984 \(Application to Revenue and Customs\) Order 2015 \(S.I. 2015/1783\)](#), arts. 1, 3(1), **Sch. 1** (with art. 3(2), (3), 4-19, Sch. 2)

### [<sup>F214</sup>63U Exclusions for certain regimes

- (1) Sections 63D to 63T do not apply to material to which paragraphs 20A to 20J of Schedule 8 to the Terrorism Act 2000 (destruction, retention and use of material taken from terrorist suspects) apply.
- (2) Any reference in those sections to a person being arrested for, or charged with, an offence does not include a reference to a person—
  - (a) being arrested under section 41 of the Terrorism Act 2000, or
  - (b) being charged with an offence following an arrest under that section.
- (3) Sections 63D to 63T do not apply to material to which paragraph 8 of Schedule 4 to the International Criminal Court Act 2001 (requirement to destroy material) applies.
- (4) Sections 63D to 63T do not apply to material to which paragraph 6 of Schedule 6 to the Terrorism Prevention and Investigation Measures Act 2011 (requirement to destroy material) applies.

[ Sections 63D to 63T do not apply to material to which paragraphs 43 to 51 of <sup>F215</sup>(4A) Schedule 3 to the Counter-Terrorism and Border Security Act 2019 (destruction, retention and use of material) apply.]

- (5) [<sup>F216</sup> Sections 63D to 63T ] do not apply to material which is, or may become, disclosable under—
  - (a) the Criminal Procedure and Investigations Act 1996, or
  - (b) a code of practice prepared under section 23 of that Act and in operation by virtue of an order under section 25 of that Act.

[ A sample that—

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- <sup>F217</sup>(5A) (a) falls within subsection (5), and  
 (b) but for that subsection would be required to be destroyed under section 63R, must not be used other than for the purposes of any proceedings for the offence in connection with which the sample was taken.
- (5B) A sample that once fell within subsection (5) but no longer does, and so becomes a sample to which section 63R applies, must be destroyed immediately if the time specified for its destruction under that section has already passed.]
- (6) Sections 63D to 63T do not apply to material which—  
 (a) is taken from a person, but  
 (b) relates to another person.
- (7) Nothing in sections 63D to 63T affects any power conferred by—  
 (a) paragraph 18(2) of Schedule 2 to the Immigration Act 1971 (power to take reasonable steps to identify a person detained), or  
 (b) section 20 of the Immigration and Asylum Act 1999 (disclosure of police information to the Secretary of State for use for immigration purposes).]

#### Textual Amendments

- F214** S. 63U inserted (31.10.2013) by [Protection of Freedoms Act 2012 \(c. 9\)](#), **ss. 17, 120** (with s. 97); S.I. 2013/1814, art. 2(d)
- F215** S. 63U(4A) inserted (13.8.2020) by [Counter-Terrorism and Border Security Act 2019 \(c. 3\)](#), s. 27(2) (d), **Sch. 4 para. 18(9)**; S.I. 2020/792, reg. 2(i)
- F216** Words in s. 63U(5) substituted (13.5.2014) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), **ss. 146(1)(a), 185(1)** (with ss. 21, 33, 42, 58, 75, 93); S.I. 2014/949, art. 3, Sch. para. 13
- F217** S. 63U(5A)(5B) inserted (13.5.2014) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), **ss. 146(1)(b), 185(1)** (with ss. 21, 33, 42, 58, 75, 93); S.I. 2014/949, art. 3, Sch. para. 13

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

- C93** S. 63U applied (with modifications) (4.11.2015) by [The Police and Criminal Evidence Act 1984 \(Application to Revenue and Customs\) Order 2015 \(S.I. 2015/1783\)](#), arts. 1, 3(1), **Sch. 1** (with art. 3(2), (3), 4-19, Sch. 2)

### <sup>F218</sup>64 Destruction of fingerprints and samples.

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#### Textual Amendments

- F218** S. 64 repealed (31.10.2013) by [Protection of Freedoms Act 2012 \(c. 9\)](#), s. 120, Sch. 9 para. 3(3), **Sch. 10 Pt. 1** (with s. 97); S.I. 2013/2104, art. 3(c)

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

- C94** S. 64 applied (with modifications) by S.I. 1985/1882, **art. 9**
- C95** 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)
- C96** S. 64 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**

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PROSPECTIVE

**[<sup>F219</sup>64ZA] Destruction of samples**

- (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**

**F219** Ss. 64ZA–64ZN inserted (prosp.) by [Crime and Security Act 2010 \(c. 17\)](#), [ss. 14\(2\)](#), 59

PROSPECTIVE

**64ZB Destruction of data given voluntarily**

- (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.

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### Textual Amendments

**F219** 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**

- (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.
- (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>F220</sup> and ]
    - <sup>F221</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



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- (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

- F219** Ss. 64ZA-64ZN inserted (prosp.) by [Crime and Security Act 2010 \(c. 17\)](#), **ss. 14(2)**, 59
- F220** 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)
- F221** 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

- (1) This section applies to material falling within subsection (2) relating to a person who—
- has no previous convictions or only one exempt conviction,
  - is arrested for or charged with a recordable offence, and
  - is aged 18 or over at the time of the alleged offence.
- (2) Material falls within this subsection if it is—
- fingerprints or impressions of footwear taken from the person in connection with the investigation of the offence, or
  - a DNA profile derived from a DNA sample so taken.
- (3) The material must be destroyed—
- 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,
  - 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

- F219** Ss. 64ZA-64ZN inserted (prosp.) by [Crime and Security Act 2010 \(c. 17\)](#), **ss. 14(2)**, 59

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PROSPECTIVE

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

- (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 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,

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- (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

**F219** Ss. 64ZA-64ZN inserted (prosp.) by [Crime and Security Act 2010 \(c. 17\)](#), [ss. 14\(2\)](#), 59

PROSPECTIVE

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

- (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,

*Status: Point in time view as at 28/06/2022. This version of this part contains provisions that are prospective.*

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- 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**

**F219** 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**

- (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—

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- (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,
  - (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

F219 Ss. 64ZA–64ZN inserted (prosp.) by [Crime and Security Act 2010 \(c. 17\)](#), ss. 14(2), 59

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PROSPECTIVE

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

- (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).
- (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.

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**Textual Amendments**

**F219** 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**

- (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
  - <sup>F222</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**

**F219** Ss. 64ZA-64ZN inserted (prosp.) by [Crime and Security Act 2010 \(c. 17\)](#), **ss. 14(2)**, 59



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**F222** 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)**

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**

**F219** 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**

- (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
  - (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**

**F219** Ss. 64ZA-64ZN inserted (prosp.) by [Crime and Security Act 2010 \(c. 17\)](#), [ss. 14\(2\)](#), 59

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PROSPECTIVE

**64ZL Retention with consent**

- (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**

**F219** Ss. 64ZA-64ZN inserted (prosp.) by [Crime and Security Act 2010 \(c. 17\)](#), **ss. 14(2)**, 59

PROSPECTIVE

**64ZM Destruction of copies, and notification of destruction**

- (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**

**F219** Ss. 64ZA-64ZN inserted (prosp.) by [Crime and Security Act 2010 \(c. 17\)](#), **ss. 14(2)**, 59

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PROSPECTIVE

### 64ZN Use of retained material

- (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—
  - (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

**F219** Ss. 64ZA-64ZN inserted (prosp.) by [Crime and Security Act 2010 \(c. 17\)](#), **ss. 14(2), 59**

### [<sup>F223</sup>64A Photographing of suspects etc.

- (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.

[ A person falling within subsection (1B) below may, on the occasion of the relevant <sup>F224</sup>(1A) event referred to in subsection (1B), be photographed elsewhere than at a police station—

- (a) with the appropriate consent; or

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- (b) if the appropriate consent is withheld or it is not practicable to obtain it, without it.

(1B) A person falls within this subsection if he has been—

- (a) arrested by a constable for an offence;
- (b) taken into custody by a constable after being arrested for an offence by a person other than a constable;
- (c) made subject to a requirement to wait <sup>F225</sup>with a community support officer or a community support volunteer under paragraph 7 of Schedule 3B] to the Police Reform Act 2002 (“the 2002 Act”);]

<sup>F226</sup>(ca) given a direction by a constable under section 35 of the Anti-social Behaviour, Crime and Policing Act 2014;]

- (d) given a penalty notice by a constable <sup>F227</sup>... under Chapter 1 of Part 1 of the Criminal Justice and Police Act 2001, a penalty notice by a constable under section 444A of the Education Act 1996, or a fixed penalty notice by a constable in uniform under section 54 of the Road Traffic Offenders Act 1988;

<sup>F228</sup>[ (e) given a fixed penalty notice by a community support officer or community support volunteer who is authorised to give the notice by virtue of his or her designation under section 38 of the Police Reform Act 2002;]

- (f) given a notice in relation to a relevant fixed penalty offence (within the meaning of paragraph 1 of Schedule 5 to the 2002 Act) by an accredited person by virtue of accreditation specifying that that paragraph applies to him. <sup>F229</sup>; or
- (g) given a notice in relation to a relevant fixed penalty offence (within the meaning of Schedule 5A to the 2002 Act) by an accredited inspector by virtue of accreditation specifying that paragraph 1 of Schedule 5A to the 2002 Act applies to him.]

<sup>F230</sup>[ A person to whom subsection (1) or (1A) does not apply may be photographed (1C) at a police station without the appropriate consent if that person falls within subsection (1D), (1F) or (1H).

(1D) A person falls within this subsection if (before or after the coming into force of this subsection) that person has been—

- (a) arrested for a recordable offence and released,
- (b) charged with a recordable offence, or
- (c) informed that they will be reported for such an offence,

and either of the conditions in subsection (1E) is met in relation to that person.

(1E) The conditions referred to in subsection (1D) are—

- (a) that the person has not been photographed in the course of the investigation of the offence by the police, or
- (b) that the person has been so photographed but—
  - (i) any photograph taken on such a previous occasion is unavailable or inadequate, and
  - (ii) a constable considers that taking a further photograph is necessary to assist in the prevention or detection of crime.

(1F) A person falls within this subsection if (before or after the coming into force of this subsection) that person has been—

- (a) convicted of a recordable offence, or

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- (b) given a caution in respect of a recordable offence which, at the time of the caution they have admitted,

and either of the conditions in subsection (1G) is met in relation to that person.

(1G) The conditions referred to in subsection (1F) are—

- (a) that the person has not been photographed since being convicted or cautioned, or
- (b) that the person has been so photographed but—
  - (i) any photograph taken on such a previous occasion is unavailable or inadequate, and
  - (ii) a constable considers that taking a further photograph is necessary to assist in the prevention or detection of crime.

(1H) A person falls within this subsection if—

- (a) under the law in force in a country or territory outside England and Wales the person has been convicted of an offence under that law (whether before or after the coming into force of this subsection and whether or not they have been punished for it),
- (b) the act constituting the offence would constitute a qualifying offence if done in England and Wales (whether or not it constituted such an offence when the person was convicted), and
- (c) either of the conditions in subsection (1I) is met in relation to that person.

(1I) The conditions referred to in subsection (1H) are—

- (a) that the person has not been photographed on a previous occasion by virtue of being a person falling within subsection (1H), or
- (b) that the person has been so photographed but—
  - (i) any photograph taken on such a previous occasion is unavailable or inadequate, and
  - (ii) a constable considers that taking a further photograph is necessary to assist in the prevention or detection of crime.

(1J) A person who falls within subsection (1F) or (1H) may be photographed under subsection (1C) only with the authorisation of an officer of at least the rank of inspector.

(1K) An officer may only give an authorisation under subsection (1J) if the officer is satisfied that taking the photograph is necessary to assist in the prevention or detection of crime.

(1L) In subsections (1E), (1G) and (1I)—

- (a) references to a photograph being unavailable include references to a photograph being lost or destroyed, and
- (b) references to a photograph being inadequate include references to a photograph being—
  - (i) unclear,
  - (ii) an incomplete photograph of the subject, or
  - (iii) no longer an accurate representation of the subject's appearance.

(1M) In subsections (1E), (1G), (1I) and (1K) references to crime include references to any conduct which—

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- (a) 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
  - (b) 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.]
- (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 [F231 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 [F232 or to the enforcement of a sentence]; 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;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.[F233; and
  - (c) “sentence” includes any order made by a court in England and Wales when dealing with an offender in respect of his offence.]
- (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.
- [ In this section, a “photograph” includes a moving image, and corresponding
- <sup>F234</sup>(6A) expressions shall be construed accordingly.]
- [ Nothing in this section applies to a person arrested under an extradition arrest power.]]
- <sup>F235</sup>(7)

#### Textual Amendments

**F223** S. 64A inserted (14.12.2001) by 2001 c. 24, s. 92

*Status: Point in time view as at 28/06/2022. This version of this part contains provisions that are prospective.*

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- F224** S. 64A(1A)(1B) inserted (1.1.2006) by Serious Organised Crime and Police Act 2005 (c. 15), **ss. 116(2), 178**; S.I. 2005/3495, **art. 2(1)(o)**
- F225** Words in s. 64A(1B)(c) substituted (31.1.2017 for specified purposes, 15.12.2017 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), **Sch. 12 para. 7(3)(a)**; S.I. 2017/1139, **reg. 2(k)** (as amended by S.I. 2017/1162, **reg. 2**)
- F226** S. 64A(1B)(ca) substituted (20.10.2014) by Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), s. 185(1), **Sch. 11 para. 4** (with **ss. 21, 33, 42, 58, 75, 93**); S.I. 2014/2590, **art. 3(g)(i)**
- F227** Words in s. 64A(1B)(d) omitted (8.4.2013) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 23 para. 13**; S.I. 2013/453, **art. 4(e)**
- F228** S. 64A(1B)(e) substituted (31.1.2017 for specified purposes, 15.12.2017 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), **Sch. 12 para. 7(3)(b)**; S.I. 2017/1139, **reg. 2(k)** (as amended by S.I. 2017/1162, **reg. 2**)
- F229** S. 64A(1B)(g) and preceding word inserted (1.4.2007) by Police and Justice Act 2006 (c. 48), **ss. 52, 53**, **Sch. 14 para. 11**; S.I. 2007/709, **art. 3(o)(p)** (subject to **arts. 6, 7**)
- F230** S. 64A(1C)-(1M) inserted (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 52(2), 208(5)(e)**
- F231** 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)**
- F232** Words in s. 64A(4)(a) inserted (1.8.2005) by Serious Organised Crime and Police Act 2005 (c. 15), **ss. 116(3), 178**; S.I. 2005/2026, **art. 2(c)**
- F233** S. 64A(5)(c) and preceding word inserted (1.8.2005) by Serious Organised Crime and Police Act 2005 (c. 15), **ss. 116(4), 178**; S.I. 2005/2026, **art. 2(c)**
- F234** S. 64A(6A) inserted (1.8.2005) by Serious Organised Crime and Police Act 2005 (c. 15), **ss. 116(5), 178**; S.I. 2005/2026, **art. 2(c)**
- F235** S. 64A(7) inserted (1.1.2004) by Extradition Act 2003 (c. 41), **ss. 169(5), 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)**))

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

- C97** 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)**
- C98** S. 64A 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**
- C99** S. 64A(1A) extended (1.1.2006) by Police Reform Act 2002 (c. 30), **ss. 38, 108(2)-(5)**, **Sch. 4 Pt. 1 para. 15ZA** (as inserted by Serious Organised Crime and Police Act 2005 (c. 15), **ss. 122, 178**, **Sch. 8 Pt. 1 para. 12**; S.I. 2005/3495, **art. 2(1)(q)(r)**)  
 S. 64A(1A) extended (1.1.2006) by Police Reform Act 2002 (c. 30), **ss. 41, 108(2)-(5)**, **Sch. 5 para. 9ZA** (as inserted by Serious Organised Crime and Police Act 2005 (c. 15), **ss. 122, 178**, **Sch. 8 Pt. 2 para. 21**; S.I. 2005/3495, **art. 2(1)(q)(r)**)
- C100** S. 64A(1B)(f) modified (27.1.2010) by Police Reform Act 2002 (c. 30), **Sch. 5 para. 1(3A)** (as inserted by Local Government and Public Involvement in Health Act 2007 (c. 28), **s. 133(3)(a)**; S.I. 2010/112, **art. 2(e)**)

## **65 Part V—supplementary.**

[<sup>F236</sup>(1)] In this Part of this Act—

[<sup>F237</sup> “analysis”, in relation to a skin impression, includes comparison and matching;]

“appropriate consent” means—

- (a) in relation to a person who [<sup>F238</sup>has attained the age of 18 years], the consent of that person;



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- (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;
- [<sup>F239</sup>“DNA profile” means any information derived from a DNA sample; “DNA sample” means any material that has come from a human body and consists of or includes human cells;]
- [<sup>F240</sup> “extradition arrest power” means any of the following—
- (a) a Part 1 warrant (within the meaning given by the Extradition Act 2003) in respect of which a certificate under section 2 of that Act has been issued;
  - (b) section 5 of that Act;
  - (c) a warrant issued under section 71 of that Act;
  - (d) a provisional warrant (within the meaning given by that Act).
  - (e) [<sup>F241</sup>section 74A of that Act;]]
- [<sup>F242</sup> ...
- [<sup>F243</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>F244</sup>“intimate sample” means—
- (a) a sample of blood, semen or any other tissue fluid, urine or pubic hair;
  - (b) a dental impression;
  - (c) [<sup>F245</sup>a swab taken from any part of a person's genitals (including pubic hair) or from a person's body orifice other than the mouth;]]
- [<sup>F246</sup>“intimate search” means a search which consists of the physical examination of a person’s body orifices other than the mouth;]
- [<sup>F247</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) [<sup>F248</sup>a swab taken from any part of a person's body other than a part from which a swab taken would be an intimate sample;]
  - (d) saliva;
  - (e) [<sup>F249</sup>a skin impression;]]
- [<sup>F250</sup>“offence”, in relation to any country or territory outside England and Wales, includes an act punishable under the law of that country or territory, however it is described;]
- [<sup>F251</sup>“registered dentist” has the same meaning as in the <sup>M11</sup>Dentists Act 1984;
- [<sup>F252</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;]

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[<sup>F253</sup>“the responsible chief officer of police”, in relation to material to which section 63D or 63R applies, means the chief officer of police for the police area—

- (a) in which the material concerned was taken, or
- (b) in the case of a DNA profile, in which the sample from which the DNA profile was derived was taken;

“section 63D material” means fingerprints or DNA profiles to which section 63D applies;]

[<sup>F254</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>F255</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>F256</sup>“the terrorism provisions” means [<sup>F257</sup>sections 41 and 43B] 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>F258</sup>“terrorist investigation” has the meaning given by section 32 of that Act;]

<sup>F259</sup> ... <sup>F260</sup> ...

[<sup>F261</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>F262</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.]

[<sup>F263</sup>(2A) In subsection (2), the reference to the destruction of a sample does not include a reference to the destruction of a sample under section 63R (requirement to destroy samples).

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(2B) Any reference in sections 63F, 63H, 63P or 63U to a person being charged with an offence includes a reference to a person being informed that the person will be reported for an offence.]

[<sup>F264</sup>(3) For the purposes of this Part, a person has in particular been convicted of an offence under the law of a country or territory outside England and Wales if—

- (a) a court exercising jurisdiction under the law of that country or territory has made in respect of such an offence a finding equivalent to a finding that the person is not guilty by reason of insanity; or
- (b) such a court has made in respect of such an offence a finding equivalent to a finding that the person is under a disability and did the act charged against him in respect of the offence.]

### Textual Amendments

- F236** 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\(b\)](#)
- F237** Words in s. 65(1) inserted (1.1.2003) by [2001 c. 16](#), [s. 80\(5\)\(a\)](#); S.I. 2002/3032, [art. 2\(b\)](#)
- F238** Words in s. 65(1) substituted (31.1.2017 for specified purposes, 3.4.2017 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\)](#), [ss. 73\(4\), 183\(1\)\(5\)\(e\)](#); S.I. 2017/399, [reg. 2](#), [Sch. para. 22](#)
- F239** Words in s. 65(1) inserted (31.10.2013) by [Protection of Freedoms Act 2012 \(c. 9\)](#), [ss. 18\(2\)\(a\), 120 \(with s. 97\)](#); S.I. 2013/1814, [art. 2\(d\)](#)
- F240** S. 65: definition of "extradition arrest power" inserted (1.1.2004) by [Extradition Act 2003 \(c. 41\)](#), [ss. 169\(6\), 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\(2\)](#)))
- F241** Words in s. 65 inserted (31.12.2020) by [Extradition \(Provisional Arrest\) Act 2020 \(c. 18\)](#), [s. 2\(4\)](#), [Sch. para. 7](#); S.I. 2020/1652, [reg. 2\(1\)\(b\)](#)
- F242** 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](#))
- F243** S. 65(1): definition of "fingerprints" substituted (1.1.2003) by [2001 c. 16](#), [s. 78\(8\)](#); S.I. 2002/3032, [art. 2\(a\)](#)
- F244** 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.](#)
- F245** S. 65(1): words in the definition of "intimate sample" substituted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), [ss. 119\(2\), 178](#); S.I. 2005/1521, [art. 3\(1\)\(g\)](#)
- F246** 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.](#)
- F247** Definition of "non-intimate sample" substituted (10.4.1995) by [1994 c. 33](#), [s. 58\(3\)](#); S.I. 1995/721, [art. 2](#), [Sch.](#)
- F248** S. 65(1): words in the definition of "non-intimate sample" substituted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), [ss. 119\(3\), 178](#); S.I. 2005/1521, [art. 3\(1\)\(g\)](#)
- F249** 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\(b\)](#)
- F250** Words in s. 65(1) inserted (7.3.2011) by [Crime and Security Act 2010 \(c. 17\)](#), [ss. 3\(5\), 59\(1\)](#); S.I. 2011/414, [art. 2\(b\)](#)
- F251** 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.](#)
- F252** 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\(e\)](#)

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- F253** Words in s. 65(1) inserted (31.10.2013) by Protection of Freedoms Act 2012 (c. 9), **ss. 18(2)(b)**, 120 (with s. 97); S.I. 2013/1814, art. 2(d)
- F254** 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)**
- F255** 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)**
- F256** 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**
- F257** Words in s. 65(1) substituted (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), s. 208(5)(w), **Sch. 19 para. 1(3)**
- F258** Words in s. 65(1) inserted (31.10.2013) by Protection of Freedoms Act 2012 (c. 9), **ss. 18(2)(c)**, 120 (with s. 97); S.I. 2013/1814, art. 2(d)
- F259** Word repealed by Criminal Justice Act 1988 (c. 33, SIF 39:1), s. 170(2), **Sch. 16**
- F260** 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)
- F261** 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)**
- F262** S. 65(2) inserted (1.1.2003) by 2001 c. 16, s. 80(6); S.I. 2002/3032, **art. 2(b)**
- F263** S. 65(2A)(2B) inserted (31.10.2013) by Protection of Freedoms Act 2012 (c. 9), **ss. 18(3)**, 120 (with s. 97); S.I. 2013/1814, art. 2(d)
- F264** S. 65(3) inserted (7.3.2011) by Crime and Security Act 2010 (c. 17), **ss. 3(6)**, 59(1); S.I. 2011/414, art. 2(b)

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

- C101** 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**
- C102** S. 65 applied (with modifications) (25.6.2013) by The Police and Criminal Evidence Act 1984 (Application to immigration officers and designated customs officials in England and Wales) Order 2013 (S.I. 2013/1542), arts. 1, 12(2)-(4), **Sch. 2** (with arts. 13-31)
- C103** S. 65(2A) modified (12.2.2019 for specified purposes, 13.8.2020 for specified purposes) by Counter-Terrorism and Border Security Act 2019 (c. 3), s. 27(1)(g), **Sch. 3 para. 36(2)** (with s. 25(9)); S.I. 2020/792, reg. 2(g)

#### Marginal Citations

- M11** 1984 c. 24.

### [<sup>F265</sup>65A "Qualifying offence"

- (1) In this Part, "qualifying offence" means—
- (a) an offence specified in subsection (2) below, or
  - (b) an ancillary offence relating to such an offence.
- (2) The offences referred to in subsection (1)(a) above are—
- (a) murder;
  - (b) manslaughter;
  - (c) false imprisonment;
  - (d) kidnapping;
  - [<sup>F266</sup>(da) an offence of indecent exposure;

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- (db) an offence under section 4 of the Vagrancy Act 1824, committed by a person by wilfully, openly, lewdly, and obscenely exposing his person with intent to insult any female;
- (dc) an offence under section 28 of the Town Police Clauses Act 1847, committed by a person by wilfully and indecently exposing his person;]
- (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;
- F267 [ (fa) an offence under section 1 of the Infant Life (Preservation) Act 1929;]
- (g) an offence under section 1 of the Children and Young Persons Act 1933;
- F268 [ (ga) an offence under section 1 of the Infanticide Act 1938;
- (gb) an offence under section 12 or 13 of the Sexual Offences Act 1956, other than an offence committed by a person where the other person involved in the conduct constituting the offence consented to it and was aged 16 or over;
- (gc) an offence under any other section of that Act, other than sections 18 and 32;
- (gd) an offence under section 128 of the Mental Health Act 1959;
- (ge) an offence under section 1 of the Indecency with Children Act 1960;]
- (h) an offence under section 4(1) of the Criminal Law Act 1967 committed in relation to murder;
- F269 [ (ha) an offence under section 5 of the Sexual Offences Act 1967;]
- (i) an offence under sections 16 to 18 of the Firearms Act 1968;
- (j) an offence under [F270 section 8, 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;
- F271 [ (ja) an offence under section 1(1) of the Genocide Act 1969;]
- (k) an offence under section 1 of the Criminal Damage Act 1971 required to be charged as arson;
- F272 [ (ka) an offence under section 54 of the Criminal Law Act 1977;]
- (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;
- F273 [ (na) an offence under section 1 of the Prohibition of Female Circumcision Act 1985;
- (nb) an offence under section 1 of the Public Order Act 1986;]
- (o) an offence under section 9 of the Aviation and Maritime Security Act 1990;
- F274 [ (oa) an offence under section 3 of the Sexual Offences (Amendment) Act 2000;
- (ob) an offence under section 51 of the International Criminal Court Act 2001;
- (oc) an offence under section 1, 2 or 3 of the Female Genital Mutilation Act 2003;]
- (p) an offence under any of sections 1 to 19, 25, 26, 30 to 41, 47 to 50, 52, 53, 57 to [F275 59A ] , 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;

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- (r) an offence for the time being listed in section 41(1) of the Counter-Terrorism Act 2008.
  - [<sup>F276</sup>(ra) an offence under section 75A of the Serious Crime Act 2015 (strangulation or suffocation).]
  - [<sup>F277</sup>(s) an offence under section 2 of the Modern Slavery Act 2015 (human trafficking).]
  - [<sup>F278</sup>(t) an offence under paragraph 1 of Schedule 4 to the Space Industry Act 2018.]
- (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.]

#### Textual Amendments

- F265** S. 65A inserted (7.3.2011) by [Crime and Security Act 2010 \(c. 17\)](#), **ss. 7**, 59(1); S.I. 2011/414, art. 2(f)
- F266** Ss. 65A(2)(da)-(dc) inserted (11.11.2013) by [The Police and Criminal Evidence Act 1984 \(Amendment: Qualifying Offences\) Order 2013 \(S.I. 2013/2774\)](#), arts. 1, **2(2)**
- F267** S. 65A(2)(fa) inserted (11.11.2013) by [The Police and Criminal Evidence Act 1984 \(Amendment: Qualifying Offences\) Order 2013 \(S.I. 2013/2774\)](#), arts. 1, **2(3)**
- F268** Ss. 65A(2)(ga)-(ge) inserted (11.11.2013) by [The Police and Criminal Evidence Act 1984 \(Amendment: Qualifying Offences\) Order 2013 \(S.I. 2013/2774\)](#), arts. 1, **2(4)**
- F269** S. 65A(2)(ha) inserted (11.11.2013) by [The Police and Criminal Evidence Act 1984 \(Amendment: Qualifying Offences\) Order 2013 \(S.I. 2013/2774\)](#), arts. 1, **2(5)**
- F270** Words in s. 65A(2)(j) substituted (31.10.2013) by [Protection of Freedoms Act 2012 \(c. 9\)](#), **ss. 18(4)**, 120 (with s. 97); S.I. 2013/1814, art. 2(d)
- F271** S. 65A(2)(ja) inserted (11.11.2013) by [The Police and Criminal Evidence Act 1984 \(Amendment: Qualifying Offences\) Order 2013 \(S.I. 2013/2774\)](#), arts. 1, **2(6)**
- F272** S. 65A(2)(ka) inserted (11.11.2013) by [The Police and Criminal Evidence Act 1984 \(Amendment: Qualifying Offences\) Order 2013 \(S.I. 2013/2774\)](#), arts. 1, **2(7)**
- F273** S. 65A(2)(na)(nb) inserted (11.11.2013) by [The Police and Criminal Evidence Act 1984 \(Amendment: Qualifying Offences\) Order 2013 \(S.I. 2013/2774\)](#), arts. 1, **2(8)**
- F274** Ss. 65A(2)(oa)-(oc) inserted (11.11.2013) by [The Police and Criminal Evidence Act 1984 \(Amendment: Qualifying Offences\) Order 2013 \(S.I. 2013/2774\)](#), arts. 1, **2(9)**
- F275** Word in s. 65A(2)(p) substituted (6.4.2013) by [Protection of Freedoms Act 2012 \(c. 9\)](#), s. 120, **Sch. 9 para. 137** (with s. 97); S.I. 2013/470, art. 2(d) (with arts. 5-8)
- F276** S. 65A(2)(ra) inserted (7.6.2022) by [Domestic Abuse Act 2021 \(c. 17\)](#), s. 90(6), **Sch. 2 para. 1**; S.I. 2022/553, regs. 1(2), 3(b)
- F277** S. 65A(2)(s) inserted (31.7.2015) by [Modern Slavery Act 2015 \(c. 30\)](#), s. 61(1), **Sch. 5 para. 3**; S.I. 2015/1476, reg. 2(j)
- F278** S. 65A(2)(t) inserted (29.7.2021) by [Space Industry Act 2018 \(c. 5\)](#), s. 70(1), **Sch. 12 para. 6**; S.I. 2021/817, reg. 2, Sch. para. 117 (with reg. 3)

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[<sup>F279</sup> **65B Persons convicted of an offence**”

- (1) For the purposes of this Part, any reference to a person who is convicted of an offence includes a reference to—
  - (a) a person who has been given a caution in respect of the offence which, at the time of the caution, the person has admitted,
  - (b) a person who has been warned or reprimanded under section 65 of the Crime and Disorder Act 1998 for the offence,
  - (c) a person who has been found not guilty of the offence by reason of insanity, or
  - (d) a person who has been found to be under a disability and to have done the act charged in respect of the offence.
- (2) This Part, so far as it relates to persons convicted of an offence, has effect despite anything in the Rehabilitation of Offenders Act 1974.
- (3) But a person is not to be treated as having been convicted of an offence if that conviction is a disregarded conviction or caution by virtue of section 92 of the Protection of Freedoms Act 2012.
- (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 purposes of calculating under sections 63F, 63H and 63N whether the person has been convicted of only one offence.
- (5) See also section 65(3) (which deals with findings equivalent to those mentioned in subsection (1)(c) or (d) by courts which exercise jurisdiction under the laws of countries or territories outside England and Wales).]

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**Textual Amendments**

**F279** S. 65B inserted (31.10.2013) by [Protection of Freedoms Act 2012 \(c. 9\)](#), **ss. 18(5)**, 120 (with s. 97);  
[S.I. 2013/1814](#), art. 2(d)



**Status:**

Point in time view as at 28/06/2022. This version of this part contains provisions that are prospective.

**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 17 June 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.