



# Police and Criminal Evidence Act 1984

## 1984 CHAPTER 60

### PART V

#### QUESTIONING AND TREATMENT OF PERSONS BY POLICE

#### 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>F1</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>F2</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>F3</sup>inspector] authorises it to be taken without the appropriate consent.
  - [<sup>F4</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>F5</sup>in the case of a person who is on bail,] 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>F6</sup>in any case,] 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>F7</sup>(iii) subsection (3AA) below applies.]

[<sup>F8</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>F9</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>F10</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>F11</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>F12</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>F13</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>F14</sup> and]

<sup>F15</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>F16</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>F17</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>F18</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>F19</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>F20</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>F21</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>F22</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>F23</sup>subsection (6) or (8B)] above shall be recorded in his custody record.
- [<sup>F24</sup>(9ZA) The power to take a non-intimate sample from a person without the appropriate consent shall be exercisable by any constable.]
- [<sup>F25</sup>(9A) Subsection (3B) above shall not apply to
- [<sup>F26</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>F27</sup>; or
  - (b) a person given a caution before 10th April 1995.]
- [<sup>F28</sup>(10) Nothing in this section applies to a person arrested or detained under the terrorism provisions.]
- [<sup>F29</sup>(11) Nothing in this section applies to a person arrested under an extradition arrest power.]

#### Textual Amendments

- F1** 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\(3\)-\(6\)](#))
- F2** 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\(3\)-\(6\)](#))
- F3** 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)**
- F4** 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)**
- F5** Words in s. 63(3ZA)(a) omitted (31.1.2017 for specified purposes) by virtue of [Policing and Crime Act 2017 \(c. 3\)](#), **ss. 59(3)(a)**, 183(1)(5)(e)
- F6** Words in s. 63(3ZA)(b) omitted (31.1.2017 for specified purposes) by virtue of [Policing and Crime Act 2017 \(c. 3\)](#), **ss. 59(3)(b)**, 183(1)(5)(e)
- F7** 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**

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- F8** 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)
- F9** 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
- F10** 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)
- F11** 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
- F12** 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)
- F13** 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)
- F14** 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)
- F15** 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)
- F16** 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)
- F17** S. 63(3C) inserted (19.3.1997) by 1997 c. 17, s. **2(1)(2)(a)(3)-(7)**
- F18** 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)
- F19** Words in s. 63(4)(a) substituted (10.4.1995) by 1994 c. 33, s. **55(3)**; S.I. 1995/721, art. 2, **Sch.**
- F20** S. 63(5A) inserted (1.1.2003) by 2001 c. 16, s. 80(3); S.I. 2002/3032, **art. 2(b)**
- F21** 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)
- F22** 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
- F23** 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)
- F24** 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)**
- F25** 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)**
- F26** 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)
- F27** 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)
- F28** 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**
- F29** 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)**

- C1** S. 63 applied with modifications by S.I. 1985/1800, arts. 3–11, Schs. 1, 2 and 1985/1882, art. 8  
S. 63(1)-(9) applied (with modifications) (10.4.1995) by 1989 c. 4, s. **15(11)-(14)** (as inserted by 1994 c. 33, s. 168(2), **Sch. 10 para. 62(2)**; S.I. 1995/721, art. 2, **Sch.** Appendix A)  
S. 63(1)-(9) applied (with modifications) (10.4.1995) by 1989 c. 4, **Sch. 5 para. 7(6A)-(6D)** (as inserted by 1994 c. 33, s. 168(2), **Sch. 10 para. 62(3)**; S.I. 1995/721, art. 2, **Sch.** Appendix A)  
S. 63(1)(2)(7) applied (1.2.1997) by S.I. 1997/15, art. 2(1), **Sch.**  
S. 63(3)-(6)(8)-(8B) applied (with modifications) (1.2.1997) by S.I. 1997/15, art. 2(1), **Sch.**
- C2** 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**

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- C3** 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)**
- C4** 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**
- C5** 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)
- C6** 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)**

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