



Police and Criminal Evidence Act 1984

1984 CHAPTER 60

PART V

QUESTIONING AND TREATMENT OF PERSONS BY POLICE

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.

^{F1}(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.]

^{F2}[(3A) ^{F3}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).]

^{F4}(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.]

Status: Point in time view as at 06/04/2013. This version of this provision has been superseded.

Changes to legislation: Police and Criminal Evidence Act 1984, Section 61 is up to date with all changes known to be in force on or before 17 May 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)

- [^{F5}(4A) The fingerprints of a person who has answered to bail at a court or police station may be taken without the appropriate consent at the court or station if—
- (a) the court, or
 - (b) an officer of at least the rank of inspector,
- authorises them to be taken.
- (4B) A court or officer may only give an authorisation under subsection (4A) if—
- (a) the person who has answered to bail has answered to it for a person whose fingerprints were taken on a previous occasion and there are reasonable grounds for believing that he is not the same person; or
 - (b) the person who has answered to bail claims to be a different person from a person whose fingerprints were taken on a previous occasion.]
- (5) An officer may give an authorisation under [^{F6}subsection (4A)] above orally or in writing but, if he gives it orally, he shall confirm it in writing as soon as is practicable.
- [^{F7}(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) in the case of a person who is on bail, he has not had his fingerprints taken in the course of the investigation of the offence by the police; or
 - (b) in any case, he has had his fingerprints taken in the course of that investigation but subsection (3A)(a) or (b) above applies.]
- [^{F8}(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 but subsection (3A)(a) or (b) above applies.]
- [^{F9}(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,
 - (b) he has been given a caution in respect of a recordable offence which, at the time of the caution, he has admitted, or
 - (c) he has been warned or reprimanded under section 65 of the Crime and Disorder Act 1998 for a recordable offence, and
- 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, cautioned or warned or reprimanded;
 - (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.

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(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.]

[^{F10}(6A) A constable may take a person's fingerprints without the appropriate consent if—

- (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.]

[^{F11}(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.]

[^{F12}(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

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- (b) those matters shall be recorded as soon as practicable after the fingerprints are taken.]

[^{F13}(7A) If a person's fingerprints are taken at a police station, [^{F14}or by virtue of [^{F15}subsection (4A), (6A)] at a place other than a police station,] whether with or without the appropriate consent—

- (a) before the fingerprints are taken, an officer [^{F16}(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, [^{F17}the matters referred to in subsection (7)(a)(i) to (iii) above][^{F18}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.

^{F19}(8A)

[^{F20}(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 ^{M1}Immigration Act 1971; or

[^{F21}(b) applies to a person arrested or detained under the terrorism provisions.]

[^{F22}(10) Nothing in this section applies to a person arrested under an extradition arrest power.]

Textual Amendments

- F1** 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\(3\)-\(6\)](#))
- F2** S. 61(3A) inserted (1.1.2003) by [2001 c. 16](#), s. 78(3); S.I. 2002/3032, **art. 2(a)**
- F3** 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\(3\)-\(6\)](#))
- F4** 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\(3\)-\(6\)](#))
- F5** S. 61(4A)(4B) inserted (1.1.2003) by [2001 c. 16](#), s. 78(4); S.I. 2002/3032, **art. 2(a)**
- F6** 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\(3\)-\(6\)](#))
- F7** 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)**
- F8** 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)**
- F9** 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)**
- F10** 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)**
- F11** 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)**

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- F12** 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)
- F13** 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**
- F14** 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)
- F15** 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)
- F16** 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)
- F17** 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)
- F18** 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**
- F19** 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**
- F20** 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)
- F21** 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
- F22** 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)

- C1** S. 61 applied (with modifications) by S.I. 1985/1882, **art. 6**
- C2** 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.**
- C3** 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)**
- C4** 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**
- C5** 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)**
- C6** 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

- M1** 1971 c. 77.

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