



Police and Criminal Evidence Act 1984

1984 CHAPTER 60

PART V

QUESTIONING AND TREATMENT OF PERSONS BY POLICE

^{F1}64 Destruction of fingerprints and samples.

^{F2}(1A) Where—

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

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

^{F2}(1B) In subsection (1A) above—

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

and

- (d) the references to an investigation and to a prosecution include references, respectively, to any investigation outside the United Kingdom of any crime

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or suspected crime and to a prosecution brought in respect of any crime in a country or territory outside the United Kingdom.]

(3) If—

- (a) fingerprints or samples are taken from a person in connection with the investigation of an offence; and
 - (b) that person is not suspected of having committed the offence,
- they must ^{F3}, except as provided in ^{F4}the following provisions of this section], be destroyed as soon as they have fulfilled the purpose for which they were taken.

^{F5}(3AA) Samples and fingerprints are not required to be destroyed under subsection (3) above if—

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

^{F5}(3AB) Subject to subsection (3AC) below, where a person is entitled under subsection (3) above to the destruction of any fingerprint or sample taken from him (or would be but for subsection (3AA) above), neither the fingerprint nor the sample, nor any information derived from the sample, shall be used—

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

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

^{F5}(3AC) Where a person from whom a fingerprint or sample has been taken consents in writing to its retention—

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

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

^{F5}(3AD) For the purposes of subsection (3AC) above it shall be immaterial whether the consent is given at, before or after the time when the entitlement to the destruction of the fingerprint or sample arises.]

(4) Proceedings which are discontinued are to be treated as concluded for the purposes of this section.

^{F6}(5) If fingerprints are destroyed—

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

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

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[^{F7}(6A) If—

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

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

(6B) In this section—^{F8} . . . “the responsible chief officer of police” means the chief officer of police in whose [^{F9}police] area the computer data were put on to the computer.]

(7) Nothing in this section—

- (a) affects any power conferred by paragraph 18(2) of Schedule 2 to the ^{M1}Immigration Act 1971 [^{F10}or section 20 of the Immigration and Asylum Act 1999 (c. 33) (disclosure of police information to the Secretary of State for use for immigration purposes)]; or
- (b) applies to a person arrested or detained under the terrorism provisions.

Textual Amendments

- F1** S. 64 applied (*prosp.*) by 2001 c. 17, ss. 34(1), 82, **Sch. 4 para. 8**
- F2** S. 64(1A)(1B) substituted (11.5.2001) for s. 64(1)(2) by 2001 c. 16, ss. **82(1)(2)(6)**, 138(2)
- F3** Words in s. 64(1)(2)(3) inserted (10.4.1995) by 1994 c. 33, s. **57(2)**; S.I. 1995/721, art. 2, **Sch.**
- F4** Words in s. 64(3) substituted (11.5.2001) by 2001 c. 16, s. **82(1)(3)(6)**
- F5** S. 64(3AA)-(3AD) substituted (11.5.2001) for s. 64(3A)(3B) by 2001 c. 16, s. **82(1)(4)(6)**
- F6** S. 64(5) substituted by Criminal Justice Act 1988 (c. 33, SIF 39:1), s. **148(1)**
- F7** S. 64(6A)(6B) inserted by Criminal Justice Act 1988 (c. 33, SIF, 39:1), s. **148(2)**
- F8** Definition of “chief officer of police” and the word “and” immediately after it in s. 64(6B) repealed (22.8.1996) by 1996 c. 16, ss. 103(1)(3), 104(1), Sch. 7 Pt. II para. 37(a), **Sch. 9 Pt. I**
- F9** Word “police” in definition of “the responsible chief officer of police” inserted (22.8.1996) by 1996 c. 16, ss. 103(1), 104(1), **Sch. 7 para. 37(b)**
- F10** Words in s. 64(7)(a) inserted (11.5.2001) by 2001 c. 16, s. **82(1)(5)(6)**

Modifications etc. (not altering text)

- C1** S. 64 applied with modifications by S.I. 1985/1882, **art. 9**
- 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
- C3** S. 64(1)–(6) modified (2.8.1993) by S.I. 1993/1813, art. 6, **Sch. 3 para. 3(3)**.
S. 64(1)(3)–(6B) applied (1.2.1997) by S.I. 1997/15, art. 2(1), **Sch.**
S. 64(2) applied (with modifications) (1.2.1997) by S.I. 1997/15, art. 2(1), **Sch.**

Marginal Citations

- M1** 1971 c. 77.

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