



# Criminal Justice and Public Order Act 1994

## 1994 CHAPTER 33

### PART IV

#### POLICE POWERS

##### *Powers of police to take body samples*

#### **54 Powers of police to take intimate body samples.**

- (1) Section 62 of the <sup>M1</sup>Police and Criminal Evidence Act 1984 (regulation of taking of intimate samples) shall be amended as follows.
- (2) After subsection (1) there shall be inserted the following subsection—
  - “(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—
    - (a) if a police officer of at least the rank of superintendent authorises it to be taken; and
    - (b) if the appropriate consent is given.”.
- (3) In subsection (2)—
  - (a) after the word “authorisation” there shall be inserted the words “ under subsection (1) or (1A) above ”; and
  - (b) in paragraph (a), for the words “serious arrestable offence” there shall be substituted the words “ recordable offence ”.
- (4) In subsection (3), after the words “subsection (1)” there shall be inserted the words “ or (1A) ”.
- (5) <sup>F1</sup> .....

*Status: Point in time view as at 01/01/2006.*

*Changes to legislation: Criminal Justice and Public Order Act 1994, Cross Heading: Powers of police to take body samples is up to date with all changes known to be in force on or before 31 July 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)*

**Textual Amendments**

**F1** S. 54(5) repealed (1.4.2003) by 2002 c. 30, ss. 107(2), 108(2), Sch. 8; S.I. 2003/808, art. 2(K)(I)(i)

**Marginal Citations**

**M1** 1984 c. 60.

**55 Powers of police to take non-intimate body samples.**

(1) Section 63 of the Police and Criminal Evidence Act 1984 (regulation of taking of non-intimate samples) shall be amended as follows.

(2) After subsection (3), there shall be inserted the following subsections—

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

- (a) he has been charged with a recordable offence or informed that he will be reported for such an offence; and
- (b) either he has not had a non-intimate sample taken from him in the course of the investigation of the offence by the police or he has had a non-intimate sample taken from him but either it was not suitable for the same means of analysis or, though so suitable, the sample proved insufficient.

(3B) A non-intimate sample may be taken from a person without the appropriate consent if he has been convicted of a recordable offence.”.

(3) In subsection (4), in paragraph (a), for the words “serious arrestable offence” there shall be substituted the words “recordable offence”.

(4) After subsection (8), there shall be inserted the following subsection—

“(8A) In a case where by virtue of subsection (3A) or (3B) a sample is taken from a person without the appropriate consent—

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

(5) In subsection (9), after the words “subsection (8)” there shall be inserted the words “or (8A)”.

<sup>F2</sup>(6) .....

**Textual Amendments**

**F2** S. 55(6) repealed (19.3.1997) by 1997 c. 17, ss. 1(1), 6(3)

**56 Fingerprints and samples: supplementary provisions.**

The following section shall be inserted after section 63 of the <sup>M2</sup>Police and Criminal Evidence Act 1984—

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### **“63A Fingerprints and samples: supplementary provisions.**

- (1) Fingerprints or samples or the information derived from samples taken under any power conferred by this Part of this Act from a person who has been arrested on suspicion of being involved in a recordable offence may be checked against other fingerprints or samples or the information derived from other samples contained in records held by or on behalf of the police or held in connection with or as a result of an investigation of an offence.
- (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>M3</sup>Prison Act 1952 applies.
- (4) Any constable may, within the allowed period, require a person who is neither in police detention nor held in custody by the police on the authority of a court to attend a police station in order to have a sample taken where—
  - (a) the person has been charged with a recordable offence or informed that he will be reported for such an offence and either he has not had a sample taken from him in the course of the investigation of the offence by the police or he has had a sample so taken from him but either it was not suitable for the same means of analysis or, though so suitable, the sample proved insufficient; or
  - (b) the person has been convicted of a recordable offence and either he has not had a sample taken from him since the conviction or he has had a sample taken from him (before or after his conviction) but either it was not suitable for the same means of analysis or, though so suitable, the sample proved insufficient.
- (5) The period allowed for requiring a person to attend a police station for the purpose specified in subsection (4) above is—
  - (a) in the case of a person falling within paragraph (a), one month beginning with the date of the charge or one month beginning with the date on which the appropriate officer is informed of the fact that the sample is not suitable for the same means of analysis or has proved insufficient, as the case may be;
  - (b) in the case of a person falling within paragraph (b), one month beginning with the date of the conviction or one month beginning with the date on which the appropriate officer is informed of the fact that the sample is not suitable for the same means of analysis or has proved insufficient, as the case may be.
- (6) A requirement under subsection (4) above—
  - (a) shall give the person at least 7 days within which he must so attend; and
  - (b) may direct him to attend at a specified time of day or between specified times of day.
- (7) Any constable may arrest without a warrant a person who has failed to comply with a requirement under subsection (4) above.

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- (8) In this section “the appropriate officer” is—
- (a) in the case of a person falling within subsection (4)(a), the officer investigating the offence with which that person has been charged or as to which he was informed that he would be reported;
  - (b) in the case of a person falling within subsection (4)(b), the officer in charge of the police station from which the investigation of the offence of which he was convicted was conducted.”.

#### Marginal Citations

**M2** 1984 c. 60.

**M3** 1952 c. 52.

### 57 Retention of samples in certain cases.

- (1) Section 64 of the <sup>M4</sup>Police and Criminal Evidence Act 1984 (which prescribes the situations in which fingerprints and samples must be destroyed) shall be amended as follows.
- (2) In subsections (1), (2) and (3), after the words “they must” there shall be inserted the words “, except as provided in subsection (3A) below,”.

[<sup>F3</sup>(3) After subsection (3), there shall be inserted the following subsections—

- “(3A) Samples which are required to be destroyed under subsection (1), (2) or (3) above need not be destroyed if they were taken for the purpose of the same investigation of an offence of which a person from whom one was taken has been convicted, but the information derived from the sample of any person entitled (apart from this subsection) to its destruction under subsection (1), (2) or (3) above shall not be used—
- (a) in evidence against the person so entitled; or
  - (b) for the purposes of any investigation of an offence.]
- (3B) Where samples are required to be destroyed under subsections (1), (2) or (3) above, and subsection (3A) above does not apply, information derived from the sample of any person entitled to its destruction under subsection (1), (2) or (3) above shall not be used—
- (a) in evidence against the person so entitled; or
  - (b) for the purposes of any investigation of an offence.”.

#### Textual Amendments

**F3** S. 57(3) repealed (1.4.2003) by 2001 c. 16, ss. 137, 138(2), Sch. 7 Pt. 2(1); S.I. 2003/708, art. 2(i)(m)

#### Marginal Citations

**M4** 1984 c. 60.

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## 58 Samples: intimate and non-intimate etc.

(1) Section 65 of the Police and Criminal Evidence Act 1984 (which contains definitions of intimate and non-intimate samples and other relevant definitions) shall be amended as follows.

(2) For the definition of “intimate sample” there shall be substituted—

““intimate sample” means—

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

(3) For the definition of “non-intimate sample” there shall be substituted—

““non-intimate sample” means—

- (a) a sample of hair other than pubic hair;
- (b) a sample taken from a nail or from under a nail;
- (c) a swab taken from any part of a person’s body including the mouth but not any other body orifice;
- (d) saliva;
- (e) a footprint or a similar impression of any part of a person’s body other than a part of his hand;”.

(4) After the definition of “non-intimate sample” there shall be inserted the following definitions—

““registered dentist” has the same meaning as in the <sup>M5</sup>Dentists Act 1984;

“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 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.”.

### Marginal Citations

M5 1984 c. 24.

## 59 Extension of powers to search persons’ mouths.

(1) In section 65 of the <sup>M6</sup>Police and Criminal Evidence Act 1984 (definitions for purposes of Part V: treatment of persons by police), after the definition of “intimate sample” there shall be inserted the following definition—

““intimate search” means a search which consists of the physical examination of a person’s body orifices other than the mouth;”.

(2) In section 32 of that Act (powers of search upon arrest), in subsection (4), at the end, there shall be inserted “ but they do authorise a search of a person’s mouth ”.

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**Marginal Citations**

**M6** 1984 c. 60.

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