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STATUTORY INSTRUMENTS

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**2021 No. 1458**

**The Age of Criminal Responsibility (Scotland) Act 2019  
(Consequential Provisions and Modifications) Order 2021**

**PART 3**

**Police powers etc.**

*Cross-border enforcement by constables of territorial police forces*

**Taking of prints and samples from child: urgent cases**

**13.**—(1) A constable may, subject to paragraph (2), take relevant physical data or a relevant sample from a child who is in England, Wales or Northern Ireland if authorised to do so by a relevant senior officer under section 69(2) of the 2019 Act.

(2) Intimate samples may not be taken from a child under paragraph (1).

(3) A constable may, for the purpose of taking relevant physical data or a relevant sample from a child under paragraph (1), take any action which a Scottish constable would be entitled to take for the purpose of taking, under section 69 of the 2019 Act, relevant data or a relevant sample from a child who is in Scotland.

(4) Where relevant physical data or a relevant sample is taken from a child under paragraph (1) by a constable other than a Scottish constable, the data or sample must be transferred, as soon as possible after the data or sample is taken, to—

- (a) a Scottish constable, or
- (b) a person specified by a Scottish constable.

(5) No other steps may be taken in relation to the relevant physical data or relevant sample (other than holding and preserving the data or sample) unless and until an order under section 63 of the 2019 Act authorising the taking of the data or sample is obtained.

(6) An application for an order under section 63 of the 2019 Act authorising the taking of the relevant physical data or relevant sample must be made before the end of the period of 7 days beginning with the day on which the data or sample was taken.

(7) Such an application must, in addition to the matters mentioned in section 61(2) of the 2019 Act, specify the data or sample taken under this article.

(8) The relevant senior officer who authorised the taking of the relevant physical data or relevant samples under section 69(2) of the 2019 Act must ensure that all record of any data taken and all samples taken are destroyed as soon as possible after the earliest of the following events—

- (a) a decision by the responsible Scottish constable not to apply for an order under section 63,
- (b) the end of the period mentioned in paragraph (6), no application having been made,
- (c) where such an application is made but the sheriff refuses the application—

- (i) the end of the period for an appeal against the sheriff’s decision, no appeal having been taken, or
- (ii) if an appeal is taken and the sheriff’s decision is upheld, the conclusion of the appeal.

(9) In this article—

a “relevant senior officer” is (regardless of which of the police forces mentioned in article 9(1) the constable acting under paragraph (1) is a constable of) a Scottish constable—

- (a) of the rank of superintendent or above,
- (b) who has not been involved in the investigation in connection with which the taking of the relevant physical data or relevant sample is sought,

“the responsible Scottish constable” is the Scottish constable—

- (a) who took the relevant physical data or relevant sample under paragraph (1),
- (b) to whom the data or sample was transferred under paragraph (4)(a), or, as the case may be,
- (c) who specified the person to whom the data or sample was transferred under paragraph (4)(b).