
STATUTORY INSTRUMENTS

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

Destruction of prints and samples

14.—(1) This article applies where an order made under section 63 of the 2019 Act authorises the taking of any relevant physical data or a relevant sample from a child, including where—

- (a) the data or sample is then taken by virtue of article 12(4), or
- (b) the order is made following the making of an application in accordance with section 70(3) of the 2019 Act or article 13(6) (the data or sample having been taken by virtue of section 69 of that Act or, as the case may be, article 13(1)).

(2) Paragraph (3) applies where—

- (a) the child is not resident in Scotland, and
- (b) a Scottish constable concludes, before the expiry of the maximum retention period, that, if the child was resident in Scotland, a decision would be made not to pass information about the child to the Principal Reporter under section 61 of the Children’s Hearings (Scotland) Act 2011(1).

(3) The constable who applied for the order under section 63 of the 2019 Act authorising the taking of the relevant physical data or relevant sample must ensure that all record of any data taken, all samples taken, and all information derived from any samples are destroyed as soon as possible after that conclusion is reached.

(4) Paragraph (5) applies where, on the day on which the maximum retention period expires, the child is not resident in Scotland.

(5) The constable who applied for the order under section 63 of the 2019 Act authorising the taking of the relevant physical data or relevant sample must ensure that all record of any data taken, all samples taken, and all information derived from any samples are destroyed as soon as possible after the expiry of the maximum retention period.

(6) Paragraphs (3) and (5) do not apply where the destruction of a sample, or the information derived from it, could have the effect of destroying any sample, or any information derived from it, lawfully held in relation to a person other than the child from whom the sample was taken.

(7) In this article, “maximum retention period” means the period of 6 months beginning with the day on which the data or sample was taken.

(1) 2011 asp 1; section 61 was amended by the Police and Fire Reform (Scotland) Act 2012 (asp 8), schedule 7, paragraph 44.

Status: *This is the original version (as it was originally made).*
