



Criminal Procedure (Scotland) Act 1995

1995 CHAPTER 46

PART II

POLICE FUNCTIONS

Prints and samples

18 Prints, samples etc. in criminal investigations.

- (1) This section applies where a person has been arrested and is in custody ^{F1}....
- (2) A constable may take from the person [^{F2}, or require the person to provide him with, such relevant physical data] as the constable may, having regard to the circumstances of the suspected offence [^{F3}or the relevant offence (within the meaning of section 164(3) of the Extradition Act 2003)] in respect of which the person has been arrested ^{F4}..., reasonably consider it appropriate to take [^{F5}from him or require him to provide, and the person so required shall comply with that requirement].

[^{F6}(3) Subject to [^{F7}subsections (3A) and (4)] below [^{F8}and [^{F9}sections 18A to [^{F10}18G]] of this Act], all record of any relevant physical data taken from or provided by a person under subsection (2) above, all samples taken under subsection (6) [^{F11}or (6A)] below and all information derived from such samples shall be destroyed as soon as possible following a decision not to institute criminal proceedings against the person or on the conclusion of such proceedings otherwise than with a conviction or an order under section 246(3) of this Act.]

[^{F12}(3A) (3A) Subsection (3) does not apply to—

- (a) relevant physical data taken under subsection (2) from, or provided under that subsection by, a person arrested under an extradition arrest power (within the meaning of section 174(2) of the Extradition Act 2003), and
- (b) any sample, or any information derived from a sample, taken under subsection (6) or (6A) from a person arrested under such a power (but see section 18H).]

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- (4) The duty under subsection (3) above to destroy samples taken under subsection (6) [^{F13}or (6A)] below and information derived from such samples shall not apply—
 - (a) where the destruction of the sample or the information could have the effect of destroying any sample, or any information derived therefrom, lawfully held in relation to a person other than the person from whom the sample was taken; or
 - (b) where the record, sample or information in question is of the same kind as a record, a sample or, as the case may be, information lawfully held by or on behalf of [^{F14}the Police Service of Scotland] in relation to the person.
- (5) No sample, or information derived from a sample, retained by virtue of subsection (4) above shall be used—
 - (a) in evidence against the person from whom the sample was taken; or
 - (b) for the purposes of the investigation of any offence.
- (6) A constable may, with the authority of an officer of a rank no lower than inspector, take from the person—
 - (a) from the hair of an external part of the body other than pubic hair, by means of cutting, combing or plucking, a sample of hair or other material;
 - (b) from a fingernail or toenail or from under any such nail, a sample of nail or other material;
 - (c) from an external part of the body, by means of swabbing or rubbing, a sample of blood or other body fluid, of body tissue or of other material;
 - (d) ^{F15}

[^{F16}(6A) A constable, or at a constable’s direction a police custody and security officer, may take from the inside of the person’s mouth, by means of swabbing, a sample of saliva or other material.]

^{F17}(7)

[^{F18}(7A) For the purposes of this section and [^{F19}, subject to the modification in subsection (7AA), sections 18A to 19C] of this Act “relevant physical data” means any—

- (a) fingerprint;
- (b) palm print;
- (c) print or impression other than those mentioned in paragraph (a) and (b) above, of an external part of the body;
- (d) record of a person’s skin on an external part of the body created by a device approved by the Secretary of State.

[The modification is that for the purposes of section 19C as it applies in relation ^{F20}(7AA) to relevant physical data taken from or provided by a person outwith Scotland, subsection (7A) is to be read as if in paragraph (d) the words from “created” to the end were omitted.]

(7B) The Secretary of State by order made by statutory instrument may approve a device for the purpose of creating such records as are mentioned in paragraph (d) of subsection (7A) above.]

- (8) Nothing in this section shall prejudice—
 - (a) any power of search;

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- (b) any power to take possession of evidence where there is imminent danger of its being lost or destroyed; or
- (c) any power to take [^{F21}relevant physical data] or samples under the authority of a warrant.

Textual Amendments

- F1** Words in s. 18(1) repealed (25.1.2018) by Criminal Justice (Scotland) Act 2016 (asp 1), s. 117(2), **sch. 2 para. 28(1)(a)**; S.S.I. 2017/345, art. 3, sch. (with art. 4)
- F2** Words in s. 18(2) substituted (1.8.1997) by 1997 c. 48, **s. 47(1)(a)(i)**; S.I. 1997/1712, art. 3, **Sch.** (subject to arts. 4, 5)
- F3** Words in s. 18(2) inserted (25.1.2018) by The Criminal Justice (Scotland) Act 2016 (Consequential Provisions) Order 2018 (S.I. 2018/46), art. 2(2)(a)(f), **Sch. 5 para. 1(2)**
- F4** Words in s. 18(2) repealed (25.1.2018) by Criminal Justice (Scotland) Act 2016 (asp 1), s. 117(2), **sch. 2 para. 28(1)(b)**; S.S.I. 2017/345, art. 3, sch. (with art. 4)
- F5** Words in s. 18(2) inserted (1.8.1997) by 1997 c. 48, **s. 47(1)(a)(ii)**; S.I. 1997/1712, art. 3, **Sch.** (subject to arts. 4, 5)
- F6** S. 18(3) substituted (*retrospective* to 1.8.1997) by 1998 c. 37, ss. 119, 121(2), **Sch. 8 para. 117(2)**
- F7** Words in s. 18(3) substituted (25.1.2018) by The Criminal Justice (Scotland) Act 2016 (Consequential Provisions) Order 2018 (S.I. 2018/46), art. 2(2)(a)(f), **Sch. 5 para. 1(3)**
- F8** Words in s. 18(3) inserted (1.1.2007) by Police, Public Order and Criminal Justice (Scotland) Act 2006 (asp 10), **ss. 83(1), 104**; S.S.I. 2006/607, **art. 3**, **Sch.**
- F9** Words in s. 18(3) substituted (28.3.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 77(2)(a), 206(1)**; S.S.I. 2011/178, art. 2, sch. (with art. 4)
- F10** Word in s. 18(3) substituted (31.10.2013) by Protection of Freedoms Act 2012 (c. 9), s. 120, **Sch. 1 para. 6(2)** (with s. 97); S.I. 2013/1814, art. 2(k)
- F11** Words in s. 18(3) inserted (1.9.2006) by Police, Public Order and Criminal Justice (Scotland) Act 2006 (asp 10), **ss. 101, 104**, **Sch. 6 para. 4(2)**; S.S.I. 2006/432, **art. 2(g)(h)**
- F12** S. 18(3A) inserted (25.1.2018) by The Criminal Justice (Scotland) Act 2016 (Consequential Provisions) Order 2018 (S.I. 2018/46), art. 2(2)(a)(f), **Sch. 5 para. 1(4)**
- F13** Words in s. 18(4) inserted (1.9.2006) by Police, Public Order and Criminal Justice (Scotland) Act 2006 (asp 10), **ss. 101, 104**, **Sch. 6 para. 4(2)**; S.S.I. 2006/432, **art. 2(g)(h)**
- F14** Words in s. 18(4)(b) substituted (1.4.2013) by Police and Fire Reform (Scotland) Act 2012 (asp 8), s. 129(2), **sch. 7 para. 12(3)**; S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)
- F15** S. 18(6)(d) repealed (27.6.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), **ss. {55(2)(a)}, 89**; S.S.I. 2003/288, **art. 2**, **Sch.**
- F16** S. 18(6A) inserted (27.6.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), **ss. {55(2)(b)}, 89**; S.S.I. 2003/288, **art. 2**, **Sch.**
- F17** S. 18(7) repealed (17.11.1997) by 1997 c. 48, **ss. 47(1)(c), 62(2)**, **Sch. 3**; S.I. 1997/2694, **art. 2(2)(a)(d)**
- F18** S. 18(7A)(7B) inserted (1.8.1997) by 1997 c. 48, **s. 47(1)(d)**; S.I. 1997/1712, art. 3, **Sch.** (subject to arts. 4, 5)
- F19** Words in s. 18(7A) substituted (1.8.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 77(2)(b), 206(1)**; S.S.I. 2011/178, art. 2, sch. (with art. 4)
- F20** S. 18(7AA) inserted (1.8.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 77(2)(c), 206(1)**; S.S.I. 2011/178, art. 2, sch. (with art. 4)
- F21** Words in s. 18(8)(c) substituted (28.3.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), s. 206(1), **sch. 7 para. 30**; S.S.I. 2011/178, art. 2, sch.

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Modifications etc. (not altering text)

- C1** S. 18 applied (with modifications) (19.2.2001) by 2000 c. 11, ss. 41, 53, Sch. 7 para. 6, **Sch. 8 para. 20(1)**; S.I. 2001/421, **art. 2**
- C2** S. 18 applied (with modifications) by 1994 c. 33, s. 138(2)(2A)(6)-(9) (as substituted (15.7.2011) by The Criminal Procedure (Legal Assistance, Detention and Appeals) (Scotland) Act 2010 (Consequential Provisions) Order 2011 (S.I. 2011/1739), art. 1(2), Sch. 2 para. 2(3)(4) (with art. 6(2)))
- C3** S. 18 applied (with modifications) (12.2.2019 for specified purposes, 13.8.2020 in so far as not already in force) by Counter-Terrorism and Border Security Act 2019 (c. 3), s. 27(1)(g), **Sch. 3 para. 42** (with s. 25(9)); S.I. 2020/792, reg. 2(g)
- C4** S. 18 applied (with modifications) (20.12.2023) by National Security Act 2023 (c. 32), s. 100(1), **Sch. 6 para. 18** (with s. 97, Sch. 6 para. 2); S.I. 2023/1272, reg. 2(a)
- C5** S. 18(3)-(5) applied (17.12.2001) by 2001 asp 13, s. 17, **Sch. 4 para. 7** (with s. 29); S.S.I. 2001/456, **art. 2**
- C6** S. 18(3) modified (2.4.2020) by The Coronavirus (Retention of Fingerprints and DNA Profiles in the Interests of National Security) Regulations 2020 (S.I. 2020/391), regs. 1, **4(3)(a)** (with reg. 5)
- C7** S. 18(3) modified (1.10.2020) by The Coronavirus (Retention of Fingerprints and DNA Profiles in the Interests of National Security) (No. 2) Regulations 2020 (S.I. 2020/973), regs. 1(1), **4(3)(a)(4)**

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 5A inserted by [2010 asp 13 Sch. 7 para. 26](#)
- s. 13(1B)(1C) inserted by [2006 asp 10 s. 82\(2\)](#)
- s. 13(2)(aa) inserted by [2006 asp 10 s. 82\(3\)\(b\)](#)
- s. 13(3A) inserted by [2006 asp 10 s. 82\(4\)](#)
- s. 13(5)(ba) inserted by [2006 asp 10 s. 82\(5\)\(a\)](#)
- s. 13(6)(a)(iii) and word inserted by [2006 asp 10 s. 82\(6\)\(b\)](#)
- s. 13(8) inserted by [2006 asp 10 s. 82\(7\)](#)
- s. 22(5A) inserted by [2007 asp 6 s. 7\(2\)\(g\)](#)
- s. 22A(1A) inserted by [2023 asp 4 s. 1\(2\)](#)
- s. 23B(1)(1A) substituted for s. 23B(1) by [2023 asp 4 s. 2\(2\)\(a\)](#)
- s. 23B(6A) inserted by [2023 asp 4 s. 1\(3\)\(c\)](#)
- s. 23B(8)-(10) inserted by [2023 asp 4 s. 2\(2\)\(c\)](#)
- s. 23C(1A) inserted by [2023 asp 4 s. 2\(3\)\(b\)](#)
- s. 23C(3) inserted by [2023 asp 4 s. 2\(3\)\(c\)](#)
- s. 24(2C) inserted by [2023 asp 4 s. 4\(4\)](#)
- s. 24(2AA) inserted by [2023 asp 4 s. 4\(2\)](#)
- s. 73A inserted by [2004 asp 3 s. 2\(3\)](#)
- s. 167(7D)(7E) inserted by [2007 asp 17 sch. 4 para. 1\(3\)](#)
- s. 167(7D) words substituted by [2010 asp 13 Sch. 3 para. 16\(2\)](#)
- s. 167(7E) words substituted by [2010 asp 13 Sch. 3 para. 16\(3\)](#)
- s. 194ZA repealed by [2014 asp 18 sch. 3 para. 25](#)
- s. 200A inserted by [2016 asp 1 s. 85](#)
- s. 205A added by [1997 c. 48 s. 1\(1\)](#) (This amendment not applied to legislation.gov.uk. 1997 c. 48, s. 1 repealed (27.6.2003) without ever being in force by [2003 asp 7, s. 19\(3\)](#); S.S.I. 2003/288, art. 2, Sch.)
- s. 210ZA inserted by [2023 asp 4 s. 5](#)
- s. 249(4A)-(4D) inserted by [2014 asp 1 s. 24](#)
- s. 271D(4A) inserted by [2019 asp 8 s. 6\(4\)](#)
- s. 271F(2)(aa) inserted by [2019 asp 8 s. 10\(4\)](#)
- s. 271AA inserted by [2019 asp 8 s. 6\(2\)](#)
- s. 271BZD inserted by [2019 asp 8 s. 3\(2\)](#)
- s. 288AB288AC inserted by [2024 asp 1 s. 32\(3\)](#)
- Sch. 5A added by [1997 c. 48 s. 1\(2\)](#) (This amendment not applied to legislation.gov.uk. 1997 c. 48, s. 1 repealed (27.6.2003) without ever being in force by [2003 asp 7, s. 19\(3\)](#); S.S.I. 2003/288, art. 2, Sch.)