



Criminal Procedure (Scotland) Act 1995

1995 CHAPTER 46

PART II

POLICE FUNCTIONS

Prints and samples

[^{F1}18B Retention of samples etc. where offer under sections 302 to 303ZA accepted

- (1) This section applies to—
- (a) relevant physical data taken from or provided by a person under section 18(2), and
 - (b) any sample, or any information derived from a sample, taken from a person under section 18(6) or (6A),
- where the conditions in subsection (2) are satisfied.
- (2) The conditions are—
- (a) the relevant physical data or sample was taken from or provided by the person while the person was [^{F2}in custody] in connection with the offence or offences in relation to which a relevant offer is issued to the person, and
 - (b) the person—
 - (i) accepts a relevant offer, or
 - (ii) in the case of a relevant offer other than one of the type mentioned in paragraph (d) of subsection (3), is deemed to accept a relevant offer.
- (3) In this section “relevant offer” means—
- (a) a conditional offer under section 302,
 - (b) a compensation offer under section 302A,
 - (c) a combined offer under section 302B, or
 - (d) a work offer under section 303ZA.

Changes to legislation: Criminal Procedure (Scotland) Act 1995, Section 18B is up to date with all changes known to be in force on or before 14 April 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) View outstanding changes

- (4) Subject to subsections (6) and (7) and section 18C(9) and (10), the relevant physical data, sample or information derived from a sample must be destroyed no later than the destruction date.
- (5) In subsection (4), “destruction date” means—
- (a) in relation to a relevant offer that relates only to—
 - (i) a relevant sexual offence,
 - (ii) a relevant violent offence, or
 - (iii) both a relevant sexual offence and a relevant violent offence, the date of expiry of the period of 3 years beginning with the date on which the relevant offer is issued or such later date as an order under section 18C(2) or (6) may specify,
 - (b) in relation to a relevant offer that relates to—
 - (i) an offence or offences falling within paragraph (a), and
 - (ii) any other offence,
 the date of expiry of the period of 3 years beginning with the date on which the relevant offer is issued or such later date as an order under section 18C(2) or (6) may specify,
 - (c) in relation to a relevant offer that does not relate to an offence falling within paragraph (a), the date of expiry of the period of 2 years beginning with the date on which the relevant offer is issued.
- (6) If a relevant offer is recalled by virtue of section 302C(5) or a decision to uphold it is quashed under section 302C(7)(a), all record of the relevant physical data, sample and information derived from a sample must be destroyed as soon as possible after—
- (a) the prosecutor decides not to issue a further relevant offer to the person,
 - (b) the prosecutor decides not to institute criminal proceedings against the person, or
 - (c) the prosecutor institutes criminal proceedings against the person and those proceedings conclude otherwise than with a conviction or an order under section 246(3).
- (7) If a relevant offer is set aside by virtue of section 303ZB, all record of the relevant physical data, sample and information derived from a sample must be destroyed as soon as possible after the setting aside.
- (8) In this section, “relevant sexual offence” and “relevant violent offence” have, subject to the modification in subsection (9), the same meanings as in section 19A(6) and include any attempt, conspiracy or incitement to commit such an offence.
- (9) The modification is that the definition of “relevant sexual offence” in section 19A(6) is to be read as if for paragraph (g) there were substituted—
- “(g) public indecency if it is apparent from the relevant offer (as defined in section 18B(3)) relating to the offence that there was a sexual aspect to the behaviour of the person to whom the relevant offer is issued;”.]

Textual Amendments

- F1** Ss. 18B-18C inserted (28.3.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), ss. 78, 206(1); S.S.I. 2011/178, art. 2, sch. (with art. 5)

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F2 Words in s. 18B(2)(a) substituted (25.1.2018) by [Criminal Justice \(Scotland\) Act 2016 \(asp 1\)](#), s. 117(2), [sch. 2 para. 28\(2\)](#); S.S.I. 2017/345, art. 3, sch. (with art. 4)

Changes to legislation:

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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.)