



Criminal Procedure (Scotland) Act 1995

1995 CHAPTER 46

PART II

POLICE FUNCTIONS

Prints and samples

[^{F1}18D Retention of samples etc. taken or provided in connection with certain fixed penalty offences

- (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 person was arrested ^{F2}... in connection with a fixed penalty offence,
 - (b) the relevant physical data or sample was taken from or provided by the person while the person was [^{F3}in custody] in connection with that offence,
 - (c) after the relevant physical data or sample was taken from or provided by the person, a constable gave the person under section 129(1) of the 2004 Act—
 - (i) a fixed penalty notice in respect of that offence (the “main FPN”), or
 - (ii) the main FPN and one or more other fixed penalty notices in respect of fixed penalty offences arising out of the same circumstances as the offence to which the main FPN relates, and
 - (d) the person, in relation to the main FPN and any other fixed penalty notice of the type mentioned in paragraph (c)(ii)—
 - (i) pays the fixed penalty, or
 - (ii) pays any sum that the person is liable to pay by virtue of section 131(5) of the 2004 Act.

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

- (3) Subject to subsections (4) and (5), the relevant physical data, sample or information derived from a sample must be destroyed before the end of the period of 2 years beginning with—
- (a) where subsection (2)(c)(i) applies, the day on which the main FPN is given to the person,
 - (b) where subsection (2)(c)(ii) applies and—
 - (i) the main FPN and any other fixed penalty notice are given to the person on the same day, that day,
 - (ii) the main FPN and any other fixed penalty notice are given to the person on different days, the later day.
- (4) Where—
- (a) subsection (2)(c)(i) applies, and
 - (b) the main FPN is revoked under section 133(1) of the 2004 Act,
- the relevant physical data, sample or information derived from a sample must be destroyed as soon as possible after the revocation.
- (5) Where—
- (a) subsection (2)(c)(ii) applies, and
 - (b) the main FPN and any other fixed penalty notices are revoked under section 133(1) of the 2004 Act,
- the relevant physical data, sample or information derived from a sample must be destroyed as soon as possible after the revocations.
- (6) In this section—
- “the 2004 Act” means the Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8),
- “fixed penalty notice” has the meaning given by section 129(2) of the 2004 Act,
- “fixed penalty offence” has the meaning given by section 128(1) of the 2004 Act.]

Textual Amendments

- F1** S. 18D inserted (28.3.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), **ss. 79**, [206\(1\)](#); [S.S.I. 2011/178](#), **art. 2**, **sch.** (with **art. 6**)
- F2** Words in s. 18D(2)(a) repealed (25.1.2018) by [Criminal Justice \(Scotland\) Act 2016 \(asp 1\)](#), **s. 117(2)**, **sch. 2 para. 28(3)(a)**; [S.S.I. 2017/345](#), **art. 3**, **sch.** (with **art. 4**)
- F3** Words in s. 18D(2)(b) substituted (25.1.2018) by [Criminal Justice \(Scotland\) Act 2016 \(asp 1\)](#), **s. 117(2)**, **sch. 2 para. 28(3)(b)**; [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.)