



Criminal Procedure (Scotland) Act 1995

1995 CHAPTER 46

PART II

POLICE FUNCTIONS

Prints and samples

[^{F1}18H Retention of samples etc.: extradition

- (1) This section applies to—
 - (a) relevant physical data taken under section 18(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 section 18(6) or (6A) from a person arrested under an extradition arrest power (within the meaning of section 174(2) of the Extradition Act 2003).
- (2) All record of any relevant physical data, all samples and all information derived from such samples must be destroyed as soon as possible following the final determination of the extradition proceedings.
- (3) The duty under subsection (2) to destroy samples taken under section 18(6) or (6A) and information derived from such samples does not apply where the circumstances in paragraph (a) or (b) of section 18(4) apply to the sample or information (and where such circumstances apply, the restrictions in section 18(5) apply to the sample or information retained).
- (4) For the purposes of this section, extradition proceedings are finally determined—
 - (a) if the person is extradited, on the day of the extradition,
 - (b) if the person is discharged and there is no right of appeal under the Extradition Act 2003 against the decision which resulted in the order for the person's discharge, when the person is discharged, on the day of the discharge,
 - (c) where the person is discharged at an extradition hearing or by the Scottish Ministers under section 93 of the Extradition Act 2003—

Changes to legislation: Criminal Procedure (Scotland) Act 1995, Section 18H is up to date with all changes known to be in force on or before 22 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](#)

- (i) if no application is made to the High Court for leave to appeal against the decision within the period during which such an application may be made, at the end of that period,
 - (ii) if such an application is made and is refused, on the day of the refusal,
 - (d) where the High Court orders the person’s discharge or dismisses an appeal against a decision to discharge the person—
 - (i) if no application is made to the High Court for permission to appeal to the Supreme Court within the 28 day period starting with the day of the High Court’s decision, at the end of that period,
 - (ii) if such an application is made to the High Court and is refused, and no application is made to the Supreme Court for permission to appeal to the Supreme Court within the period of 28 days starting with the day of the refusal, at the end of that period,
 - (iii) if such an application is made to the Supreme Court and is refused, on the day of the refusal,
 - (iv) if permission to appeal to the Supreme Court is granted, but no appeal is made within the period of 28 days starting with the day on which permission is granted, at the end of that period,
 - (v) if there is an appeal to the Supreme Court against the High Court’s decision, on the day on which the appeal is refused, is abandoned or is upheld with the effect that the person is discharged,
 - (e) if an appeal to the Supreme Court is upheld with the effect that the person is discharged, on the day of the decision to uphold the appeal.
- (5) In subsection (4)—
- “extradition hearing” has the meaning given by section 68 or as the case may be section 140 of the Extradition Act 2003,
 - “extradition proceedings” means proceedings under the Extradition Act 2003.]

Textual Amendments

- F1** S. 18H 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(5)** (with art. 9(3)(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.)