



Crime and Security Act 2010

2010 CHAPTER 17

Taking of fingerprints and samples: England and Wales

2 Powers to take material in relation to offences

Fingerprinting

- (1) In the Police and Criminal Evidence Act 1984, in section 61 (fingerprinting), after subsection (5) there is inserted—

“(5A) The fingerprints of a person may be taken without the appropriate consent if (before or after the coming into force of this subsection) he has been arrested for a recordable offence and released and—

- (a) in the case of a person who is on bail, he has not had his fingerprints taken in the course of the investigation of the offence by the police; or
- (b) in any case, he has had his fingerprints taken in the course of that investigation but subsection (3A)(a) or (b) above applies.”

- (2) In that section, after subsection (5A) (as inserted by subsection (1) above) there is inserted—

“(5B) The fingerprints of a person not detained at a police station may be taken without the appropriate consent if (before or after the coming into force of this subsection) he has been charged with a recordable offence or informed that he will be reported for such an offence and—

- (a) he has not had his fingerprints taken in the course of the investigation of the offence by the police; or
- (b) he has had his fingerprints taken in the course of that investigation but subsection (3A)(a) or (b) above applies.”

- (3) In that section, for subsection (6) there is substituted—

“(6) Subject to this section, the fingerprints of a person may be taken without the appropriate consent if (before or after the coming into force of this subsection)

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- (a) he has been convicted of a recordable offence,
- (b) he has been given a caution in respect of a recordable offence which, at the time of the caution, he has admitted, or
- (c) he has been warned or reprimanded under section 65 of the Crime and Disorder Act 1998 for a recordable offence, and

either of the conditions mentioned in subsection (6ZA) below is met.

(6ZA) The conditions referred to in subsection (6) above are—

- (a) the person has not had his fingerprints taken since he was convicted, cautioned or warned or reprimanded;
- (b) he has had his fingerprints taken since then but subsection (3A)(a) or (b) above applies.

(6ZB) Fingerprints may only be taken as specified in subsection (6) above with the authorisation of an officer of at least the rank of inspector.

(6ZC) An officer may only give an authorisation under subsection (6ZB) above if the officer is satisfied that taking the fingerprints is necessary to assist in the prevention or detection of crime.”

(4) In that section, for subsection (8B) there is substituted—

“(8B) Any power under this section to take the fingerprints of a person without the appropriate consent, if not otherwise specified to be exercisable by a constable, shall be exercisable by a constable.”

Non-intimate samples

(5) In section 63 of that Act (non-intimate samples), after subsection (3) there is inserted—

“(3ZA) A non-intimate sample may be taken from a person without the appropriate consent if (before or after the coming into force of this subsection) he has been arrested for a recordable offence and released and—

- (a) in the case of a person who is on bail, he has not had a non-intimate sample of the same type and from the same part of the body taken from him in the course of the investigation of the offence by the police; or
- (b) in any case, he has had a non-intimate sample taken from him in the course of that investigation but—
 - (i) it was not suitable for the same means of analysis, or
 - (ii) it proved insufficient.”

(6) In that section, for subsection (3A) there is substituted—

“(3A) A non-intimate sample may be taken from a person (whether or not he is in police detention or held in custody by the police on the authority of a court) without the appropriate consent if he has been charged with a recordable offence or informed that he will be reported for such an offence and—

- (a) he has not had a non-intimate sample taken from him in the course of the investigation of the offence by the police; or
- (b) he has had a non-intimate sample taken from him in the course of that investigation but—
 - (i) it was not suitable for the same means of analysis, or
 - (ii) it proved insufficient; or

- (c) he has had a non-intimate sample taken from him in the course of that investigation and—
 - (i) the sample has been destroyed pursuant to section 64ZA below or any other enactment, and
 - (ii) it is disputed, in relation to any proceedings relating to the offence, whether a DNA profile relevant to the proceedings is derived from the sample.”
- (7) In that section, for subsection (3B) there is substituted—
- “(3B) Subject to this section, a non-intimate sample may be taken from a person without the appropriate consent if (before or after the coming into force of this subsection)—
- (a) he has been convicted of a recordable offence,
 - (b) he has been given a caution in respect of a recordable offence which, at the time of the caution, he has admitted, or
 - (c) he has been warned or reprimanded under section 65 of the Crime and Disorder Act 1998 for a recordable offence, and
- either of the conditions mentioned in subsection (3BA) below is met.
- (3BA) The conditions referred to in subsection (3B) above are—
- (a) a non-intimate sample has not been taken from the person since he was convicted, cautioned or warned or reprimanded;
 - (b) such a sample has been taken from him since then but—
 - (i) it was not suitable for the same means of analysis, or
 - (ii) it proved insufficient.
- (3BB) A non-intimate sample may only be taken as specified in subsection (3B) above with the authorisation of an officer of at least the rank of inspector.
- (3BC) An officer may only give an authorisation under subsection (3BB) above if the officer is satisfied that taking the sample is necessary to assist in the prevention or detection of crime.”
- (8) In that section, in subsection (9A)—
- (a) after “shall not apply to” there is inserted “(a)”;
 - (b) at the end there is inserted
- “; or
- (b) a person given a caution before 10th April 1995.”
- (9) In section 1 of the Criminal Evidence (Amendment) Act 1997 (persons imprisoned or detained by virtue of pre-existing conviction for sexual offence etc)—
- (a) in subsection (3)(b), at the beginning there is inserted “he has at any time served or”;
 - (b) in subsection (4)(b)—
 - (i) at the beginning there is inserted “he has at any time been detained or”;
 - (ii) sub-paragraph (ii) and the preceding “or” are repealed.
- (10) In section 2 of that Act (persons detained following acquittal on grounds of insanity or finding of unfitness to plead), in subsections (3)(a) and (4)(a), at the beginning there is inserted “he has at any time been detained or”.

3 Powers to take material in relation to offences outside England and Wales

Fingerprinting

- (1) In section 61 of the Police and Criminal Evidence Act 1984 (fingerprinting), after subsection (6C) there is inserted—

“(6D) Subject to this section, the fingerprints of a person may be taken without the appropriate consent if—

- (a) under the law in force in a country or territory outside England and Wales the person has been convicted of an offence under that law (whether before or after the coming into force of this subsection and whether or not he has been punished for it);
- (b) the act constituting the offence would constitute a qualifying offence if done in England and Wales (whether or not it constituted such an offence when the person was convicted); and
- (c) either of the conditions mentioned in subsection (6E) below is met.

(6E) The conditions referred to in subsection (6D)(c) above are—

- (a) the person has not had his fingerprints taken on a previous occasion under subsection (6D) above;
- (b) he has had his fingerprints taken on a previous occasion under that subsection but subsection (3A)(a) or (b) above applies.

(6F) Fingerprints may only be taken as specified in subsection (6D) above with the authorisation of an officer of at least the rank of inspector.

(6G) An officer may only give an authorisation under subsection (6F) above if the officer is satisfied that taking the fingerprints is necessary to assist in the prevention or detection of crime.”

Intimate samples

- (2) In section 62 of that Act (intimate samples), after subsection (2) there is inserted—

“(2A) An intimate sample may be taken from a person where—

- (a) two or more non-intimate samples suitable for the same means of analysis have been taken from the person under section 63(3E) below (persons convicted of offences outside England and Wales etc) but have proved insufficient;
- (b) a police officer of at least the rank of inspector authorises it to be taken; and
- (c) the appropriate consent is given.

(2B) An officer may only give an authorisation under subsection (2A) above if the officer is satisfied that taking the sample is necessary to assist in the prevention or detection of crime.”

- (3) In that section, in subsection (3), after “or (1A)” there is inserted “or (2A)”.

Non-intimate samples

- (4) In section 63 of that Act (non-intimate samples), after subsection (3D) there is inserted—

“(3E) Subject to this section, a non-intimate sample may be taken without the appropriate consent from a person if—

- (a) under the law in force in a country or territory outside England and Wales the person has been convicted of an offence under that law (whether before or after the coming into force of this subsection and whether or not he has been punished for it);
- (b) the act constituting the offence would constitute a qualifying offence if done in England and Wales (whether or not it constituted such an offence when the person was convicted); and
- (c) either of the conditions mentioned in subsection (3F) below is met.

(3F) The conditions referred to in subsection (3E)(c) above are—

- (a) the person has not had a non-intimate sample taken from him on a previous occasion under subsection (3E) above;
- (b) he has had such a sample taken from him on a previous occasion under that subsection but—
 - (i) the sample was not suitable for the same means of analysis, or
 - (ii) it proved insufficient.

(3G) A non-intimate sample may only be taken as specified in subsection (3E) above with the authorisation of an officer of at least the rank of inspector.

(3H) An officer may only give an authorisation under subsection (3G) above if the officer is satisfied that taking the sample is necessary to assist in the prevention or detection of crime.”

Interpretation

(5) In section 65 of that Act (interpretation), in subsection (1), after the definition of “non-intimate sample” there is inserted—

““offence”, in relation to any country or territory outside England and Wales, includes an act punishable under the law of that country or territory, however it is described;”.

(6) In that section, at the end there is inserted—

“(3) For the purposes of this Part, a person has in particular been convicted of an offence under the law of a country or territory outside England and Wales if—

- (a) a court exercising jurisdiction under the law of that country or territory has made in respect of such an offence a finding equivalent to a finding that the person is not guilty by reason of insanity; or
- (b) such a court has made in respect of such an offence a finding equivalent to a finding that the person is under a disability and did the act charged against him in respect of the offence.”

4 Information to be given on taking of material

Fingerprinting

(1) In section 61 of the Police and Criminal Evidence Act 1984 (fingerprinting), for subsection (7) there is substituted—

“(7) Where a person’s fingerprints are taken without the appropriate consent by virtue of any power conferred by this section—

- (a) before the fingerprints are taken, the person shall be informed of—
 - (i) the reason for taking the fingerprints;
 - (ii) the power by virtue of which they are taken; and
 - (iii) in a case where the authorisation of the court or an officer is required for the exercise of the power, the fact that the authorisation has been given; and
- (b) those matters shall be recorded as soon as practicable after the fingerprints are taken.”

(2) In that section, in subsection (7A)—

- (a) for “subsection (6A)”, in the first place, there is substituted “subsection (4A), (6A)”;
- (b) in paragraph (a), for the words from “(or” to “constable)” there is substituted “(or, where by virtue of subsection (4A), (6A) or (6BA) the fingerprints are taken at a place other than a police station, the constable taking the fingerprints)”.

(3) In that section, in subsection (8) (requirement to record reason for taking fingerprints on custody record), for “the reason for taking them” there is substituted “the matters referred to in subsection (7)(a)(i) to (iii) above”.

Intimate samples

(4) In section 62 of that Act (intimate samples), for subsections (5) to (7A) there is substituted—

“(5) Before an intimate sample is taken from a person, an officer shall inform him of the following—

- (a) the reason for taking the sample;
- (b) the fact that authorisation has been given and the provision of this section under which it has been given; and
- (c) if the sample was taken at a police station, the fact that the sample may be the subject of a speculative search.

(6) The reason referred to in subsection (5)(a) above must include, except in a case where the sample is taken under subsection (2A) above, a statement of the nature of the offence in which it is suspected that the person has been involved.

(7) After an intimate sample has been taken from a person, the following shall be recorded as soon as practicable—

- (a) the matters referred to in subsection (5)(a) and (b) above;
- (b) if the sample was taken at a police station, the fact that the person has been informed as specified in subsection (5)(c) above; and
- (c) the fact that the appropriate consent was given.”

(5) In that section, in subsection (8), the words “or (7A)” are repealed.

(6) In the Police Reform Act 2002, in Part 3 of Schedule 4 (powers exercisable by detention officers), in paragraph 30 (warnings about intimate samples), for “section 62(7A)(a)” there is substituted “section 62(5)(c)”.

Non-intimate samples

(7) In section 63 of that Act (non-intimate samples), for subsections (6) to (8A) there is substituted—

“(6) Where a non-intimate sample is taken from a person without the appropriate consent by virtue of any power conferred by this section—

(a) before the sample is taken, an officer shall inform him of—

(i) the reason for taking the sample;

(ii) the power by virtue of which it is taken; and

(iii) in a case where the authorisation of an officer is required for the exercise of the power, the fact that the authorisation has been given; and

(b) those matters shall be recorded as soon as practicable after the sample is taken.

(7) The reason referred to in subsection (6)(a)(i) above must include, except in a case where the non-intimate sample is taken under subsection (3B) or (3E) above, a statement of the nature of the offence in which it is suspected that the person has been involved.”

(8) In that section, in subsection (9) (requirement to record matters on custody record), for “subsection (8) or (8A) or (8B)” there is substituted “subsection (6) or (8B)”.

5 Speculative searches

(1) In section 63A of the Police and Criminal Evidence Act 1984 (supplementary), after subsection (1D) there is inserted—

“(1E) Where fingerprints or samples have been taken from any person under section 61(6) or 63(3B) above (persons convicted etc), the fingerprints or samples, or information derived from the samples, may be checked against any of the fingerprints, samples or information mentioned in subsection (1) (a) or (b) above.

(1F) Where fingerprints or samples have been taken from any person under section 61(6D), 62(2A) or 63(3E) above (offences outside England and Wales etc), the fingerprints or samples, or information derived from the samples, may be checked against any of the fingerprints, samples or information mentioned in subsection (1)(a) or (b) above.”

(2) In Schedule 4 to the International Criminal Court Act 2001 (taking of fingerprints or non-intimate samples), in paragraph 7(3)(a), after “section 63A(1)” there is inserted “, (1E) or (1F)”.

6 Power to require attendance at police station

(1) In section 63A of the Police and Criminal Evidence Act 1984 (fingerprinting and samples: supplementary provisions), for subsections (4) to (8) there is substituted—

“(4) Schedule 2A (fingerprinting and samples: power to require attendance at police station) shall have effect.”

(2) In that Act, after Schedule 2 there is inserted—

“SCHEDULE 2A

Section 63A(4)

FINGERPRINTING AND SAMPLES: POWER TO
REQUIRE ATTENDANCE AT POLICE STATION**PART 1**

FINGERPRINTING

Persons arrested and released

- 1 (1) A constable may require a person to attend a police station for the purpose of taking his fingerprints under section 61(5A).
- (2) The power under sub-paragraph (1) above may not be exercised in a case falling within section 61(5A)(b) (fingerprints taken on previous occasion insufficient etc) after the end of the period of six months beginning with the day on which the appropriate officer was informed that section 61(3A) (a) or (b) applied.
- (3) In sub-paragraph (2) above “appropriate officer” means the officer investigating the offence for which the person was arrested.

Persons charged etc

- 2 (1) A constable may require a person to attend a police station for the purpose of taking his fingerprints under section 61(5B).
- (2) The power under sub-paragraph (1) above may not be exercised after the end of the period of six months beginning with—
 - (a) in a case falling within section 61(5B)(a) (fingerprints not taken previously), the day on which the person was charged or informed that he would be reported, or
 - (b) in a case falling within section 61(5B)(b) (fingerprints taken on previous occasion insufficient etc), the day on which the appropriate officer was informed that section 61(3A)(a) or (b) applied.
- (3) In sub-paragraph (2)(b) above “appropriate officer” means the officer investigating the offence for which the person was charged or informed that he would be reported.

Persons convicted etc of an offence in England and Wales

- 3 (1) A constable may require a person to attend a police station for the purpose of taking his fingerprints under section 61(6).
- (2) Where the condition in section 61(6ZA)(a) is satisfied (fingerprints not taken previously), the power under sub-paragraph (1) above may not be exercised after the end of the period of two years beginning with—
 - (a) the day on which the person was convicted, cautioned or warned or reprimanded, or

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- (b) if later, the day on which this Schedule comes into force.
- (3) Where the condition in section 61(6ZA)(b) is satisfied (fingerprints taken on previous occasion insufficient etc), the power under sub-paragraph (1) above may not be exercised after the end of the period of two years beginning with—
 - (a) the day on which an appropriate officer was informed that section 61(3A)(a) or (b) applied, or
 - (b) if later, the day on which this Schedule comes into force.
- (4) In sub-paragraph (3)(a) above “appropriate officer” means an officer of the police force which investigated the offence in question.
- (5) Sub-paragraphs (2) and (3) above do not apply where the offence is a qualifying offence (whether or not it was such an offence at the time of the conviction, caution or warning or reprimand).

Persons subject to a control order

- 4 A constable may require a person to attend a police station for the purpose of taking his fingerprints under section 61(6BA).

Persons convicted etc of an offence outside England and Wales

- 5 A constable may require a person to attend a police station for the purpose of taking his fingerprints under section 61(6D).

Multiple attendance

- 6 (1) Where a person’s fingerprints have been taken under section 61 on two occasions in relation to any offence, he may not under this Schedule be required to attend a police station to have his fingerprints taken under that section in relation to that offence on a subsequent occasion without the authorisation of an officer of at least the rank of inspector.
- (2) Where an authorisation is given under sub-paragraph (1) above—
 - (a) the fact of the authorisation, and
 - (b) the reasons for giving it,shall be recorded as soon as practicable after it has been given.

PART 2

INTIMATE SAMPLES

Persons suspected to be involved in an offence

- 7 A constable may require a person to attend a police station for the purpose of taking an intimate sample from him under section 62(1A) if, in the course of the investigation of an offence, two or more non-intimate samples suitable for the same means of analysis have been taken from him but have proved insufficient.

Persons convicted etc of an offence outside England and Wales

- 8 A constable may require a person to attend a police station for the purpose of taking a sample from him under section 62(2A) if two or more non-intimate samples suitable for the same means of analysis have been taken from him under section 63(3E) but have proved insufficient.

PART 3

NON-INTIMATE SAMPLES

Persons arrested and released

- 9 (1) A constable may require a person to attend a police station for the purpose of taking a non-intimate sample from him under section 63(3ZA).
- (2) The power under sub-paragraph (1) above may not be exercised in a case falling within section 63(3ZA)(b) (sample taken on a previous occasion not suitable etc) after the end of the period of six months beginning with the day on which the appropriate officer was informed of the matters specified in section 63(3ZA)(b)(i) or (ii).
- (3) In sub-paragraph (2) above, “appropriate officer” means the officer investigating the offence for which the person was arrested.

Persons charged etc

- 10 (1) A constable may require a person to attend a police station for the purpose of taking a non-intimate sample from him under section 63(3A).
- (2) The power under sub-paragraph (1) above may not be exercised in a case falling within section 63(3A)(a) (sample not taken previously) after the end of the period of six months beginning with the day on which he was charged or informed that he would be reported.
- (3) The power under sub-paragraph (1) above may not be exercised in a case falling within section 63(3A)(b) (sample taken on a previous occasion not suitable etc) after the end of the period of six months beginning with the day on which the appropriate officer was informed of the matters specified in section 63(3A)(b)(i) or (ii).
- (4) In sub-paragraph (3) above “appropriate officer” means the officer investigating the offence for which the person was charged or informed that he would be reported.

Persons convicted etc of an offence in England and Wales

- 11 (1) A constable may require a person to attend a police station for the purpose of taking a non-intimate sample from him under section 63(3B).
- (2) Where the condition in section 63(3BA)(a) is satisfied (sample not taken previously), the power under sub-paragraph (1) above may not be exercised after the end of the period of two years beginning with—

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- (a) the day on which the person was convicted, cautioned or warned or reprimanded, or
 - (b) if later, the day on which this Schedule comes into force.
- (3) Where the condition in section 63(3BA)(b) is satisfied (sample taken on a previous occasion not suitable etc), the power under sub-paragraph (1) above may not be exercised after the end of the period of two years beginning with—
- (a) the day on which an appropriate officer was informed of the matters specified in section 63(3BA)(b)(i) or (ii), or
 - (b) if later, the day on which this Schedule comes into force.
- (4) In sub-paragraph (3)(a) above “appropriate officer” means an officer of the police force which investigated the offence in question.
- (5) Sub-paragraphs (2) and (3) above do not apply where—
- (a) the offence is a qualifying offence (whether or not it was such an offence at the time of the conviction, caution or warning or reprimand), or
 - (b) he was convicted before 10th April 1995 and is a person to whom section 1 of the Criminal Evidence (Amendment) Act 1997 applies.

Persons subject to a control order

- 12 A constable may require a person to attend a police station for the purpose of taking a non-intimate sample from him under section 63(3D).

Persons convicted etc of an offence outside England and Wales

- 13 A constable may require a person to attend a police station for the purpose of taking a non-intimate sample from him under section 63(3E).

Multiple exercise of power

- 14 (1) Where a non-intimate sample has been taken from a person under section 63 on two occasions in relation to any offence, he may not under this Schedule be required to attend a police station to have another such sample taken from him under that section in relation to that offence on a subsequent occasion without the authorisation of an officer of at least the rank of inspector.
- (2) Where an authorisation is given under sub-paragraph (1) above—
- (a) the fact of the authorisation, and
 - (b) the reasons for giving it,
- shall be recorded as soon as practicable after it has been given.

PART 4

GENERAL AND SUPPLEMENTARY

Requirement to have power to take fingerprints or sample

- 15 A power conferred by this Schedule to require a person to attend a police station for the purposes of taking fingerprints or a sample under any provision of this Act may be exercised only in a case where the fingerprints or sample may be taken from the person under that provision (and, in particular, if any necessary authorisation for taking the fingerprints or sample under that provision has been obtained).

Date and time of attendance

- 16 (1) A requirement under this Schedule—
- (a) shall give the person a period of at least seven days within which he must attend the police station; and
 - (b) may direct him so to attend at a specified time of day or between specified times of day.
- (2) In specifying a period or time or times of day for the purposes of sub-paragraph (1) above, the constable shall consider whether the fingerprints or sample could reasonably be taken at a time when the person is for any other reason required to attend the police station.
- (3) A requirement under this Schedule may specify a period shorter than seven days if—
- (a) there is an urgent need for the fingerprints or sample for the purposes of the investigation of an offence; and
 - (b) the shorter period is authorised by an officer of at least the rank of inspector.
- (4) Where an authorisation is given under sub-paragraph (3)(b) above—
- (a) the fact of the authorisation, and
 - (b) the reasons for giving it,
- shall be recorded as soon as practicable after it has been given.
- (5) If the constable giving a requirement under this Schedule and the person to whom it is given so agree, it may be varied so as to specify any period within which, or date or time at which, the person must attend; but a variation shall not have effect unless confirmed by the constable in writing.

Enforcement

- 17 A constable may arrest without warrant a person who has failed to comply with a requirement under this Schedule.”
- (3) In that Act, in section 27 (fingerprinting of certain offenders), subsections (1) to (3) are repealed.

(4) In the Police Reform Act 2002, in Part 3 of Schedule 4 (powers exercisable by detention officers)—

- (a) in paragraph 25 (attendance at police station for fingerprinting), for “section 27(1) of the 1984 Act (fingerprinting of suspects)” there is substituted “Schedule 2A to the 1984 Act (fingerprinting and samples: power to require attendance at a police station)”;
- (b) in paragraph 32 (attendance at police station for the taking of a sample), for the words from “subsection (4)” to “samples” there is substituted “Schedule 2A to the 1984 Act (fingerprinting and samples: power to require attendance at a police station)”.

7 “Qualifying offence”

After section 65 of the Police and Criminal Evidence Act 1984 there is inserted—

“65A Qualifying offence”

- (1) In this Part, “qualifying offence” means—
 - (a) an offence specified in subsection (2) below, or
 - (b) an ancillary offence relating to such an offence.
- (2) The offences referred to in subsection (1)(a) above are—
 - (a) murder;
 - (b) manslaughter;
 - (c) false imprisonment;
 - (d) kidnapping;
 - (e) an offence under section 4, 16, 18, 20 to 24 or 47 of the Offences Against the Person Act 1861;
 - (f) an offence under section 2 or 3 of the Explosive Substances Act 1883;
 - (g) an offence under section 1 of the Children and Young Persons Act 1933;
 - (h) an offence under section 4(1) of the Criminal Law Act 1967 committed in relation to murder;
 - (i) an offence under sections 16 to 18 of the Firearms Act 1968;
 - (j) an offence under section 9 or 10 of the Theft Act 1968 or an offence under section 12A of that Act involving an accident which caused a person’s death;
 - (k) an offence under section 1 of the Criminal Damage Act 1971 required to be charged as arson;
 - (l) an offence under section 1 of the Protection of Children Act 1978;
 - (m) an offence under section 1 of the Aviation Security Act 1982;
 - (n) an offence under section 2 of the Child Abduction Act 1984;
 - (o) an offence under section 9 of the Aviation and Maritime Security Act 1990;
 - (p) an offence under any of sections 1 to 19, 25, 26, 30 to 41, 47 to 50, 52, 53, 57 to 59, 61 to 67, 69 and 70 of the Sexual Offences Act 2003;
 - (q) an offence under section 5 of the Domestic Violence, Crime and Victims Act 2004;

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- (r) an offence for the time being listed in section 41(1) of the Counter-Terrorism Act 2008.
- (3) The Secretary of State may by order made by statutory instrument amend subsection (2) above.
- (4) A statutory instrument containing an order under subsection (3) above shall not be made unless a draft of the instrument has been laid before, and approved by resolution of, each House of Parliament.
- (5) In subsection (1)(b) above “ancillary offence”, in relation to an offence, means—
 - (a) aiding, abetting, counselling or procuring the commission of the offence;
 - (b) an offence under Part 2 of the Serious Crime Act 2007 (encouraging or assisting crime) in relation to the offence (including, in relation to times before the commencement of that Part, an offence of incitement);
 - (c) attempting or conspiring to commit the offence.”