



# 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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*Changes to legislation: There are currently no known outstanding effects for the Crime and Security Act 2010, Section 2. (See end of Document for details)*

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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

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- (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 ”.

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**Commencement Information**

**II** S. 2 in force at 7.3.2011 by [S.I. 2011/414](#), **art. 2(b)**

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