

SCHEDULE 4

(introduced by section 17)

TAKING OF FINGERPRINTS ETC.

Nomination of court to supervise taking of evidence

- 1 (1) Where the Scottish Ministers receive a request from the ICC for assistance in obtaining evidence as to the identity of a person, they may nominate a court in Scotland to supervise the taking from the person of relevant physical data or a sample (or both).
- (2) They shall not do so unless—
- (a) they are satisfied that other means of identification have been tried and have proved inconclusive; and
 - (b) they have notified the ICC of that fact and the ICC has signified that it wishes to proceed with the request.
- (3) In this schedule—
- “relevant physical data” has the meaning given by section 18(7A) of the Criminal Procedure (Scotland) Act 1995 (c. 46); and
- “sample” means—
- (a) a sample of hair or other material taken, by means of cutting, combing or plucking, from the hair of an external part of the body other than pubic hair;
 - (b) a sample of nail or other material from a fingernail or toenail or from under any such nail;
 - (c) a sample of blood or other body fluid, of body tissue or of other material taken, by means of swabbing or rubbing, from an external part of the body; or
 - (d) a sample of saliva or other material taken, by means of swabbing, from the inside of the mouth.

Order to provide evidence

- 2 (1) The nominated court may order the taking from the person by a constable of relevant physical data or a sample (or both).
- (2) Where a sample is taken, the sample shall be sufficient in quantity and quality for the purposes of enabling information to be produced by the means of analysis to be used in relation to the sample.
- (3) In paragraphs 3 to 5 below “the necessary identification evidence” means the relevant physical data or sample (or both) required by the order of the nominated court.

Requirement to attend and provide evidence

- 3 (1) The order of the nominated court may require the person to attend a police station to provide the necessary identification evidence.
- (2) Any such requirement—
- (a) shall allow the person at least seven days within which to attend; and

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- (b) may direct that the person attend at a specified time of day or between specified times of day.
- (3) If the person fails to attend in accordance with the order—
 - (a) the nominated court may issue a warrant for the arrest of the person; and
 - (b) the person may be detained for such period as is necessary to enable the necessary identification evidence to be taken.
- (4) The court shall inform the person concerned of the effect of sub-paragraph (3) above.
- (5) Where the person concerned is in prison or is otherwise lawfully detained—
 - (a) sub-paragraphs (1) to (4) above shall not apply; and
 - (b) the necessary identification evidence may be taken at the place where the person is detained or at such other place as the nominated court may direct.

Consent to taking of evidence

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- (1) The necessary identification evidence may be taken—
 - (a) with the consent, given in writing, of the person from whom such evidence is to be taken; or
 - (b) without that consent, in accordance with paragraph 5 below.
 - (2) The court shall inform the person concerned of the effect of sub-paragraph (1) above.

Taking of evidence without consent

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- (1) A constable may, if authorised by an officer of the rank of superintendent or above, take the necessary identification evidence without consent.
 - (2) A constable authorised under sub-paragraph (1) above may use reasonable force in taking the necessary identification evidence.
 - (3) An officer may give an authorisation under sub-paragraph (1) above orally or in writing; but if given orally it shall be confirmed in writing as soon as is reasonably practicable.
 - (4) Before relevant physical data or a sample is taken from a person upon an authorisation given under sub-paragraph (1) above, the person shall be informed that the authorisation has been given.

Record of certain matters to be made

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- (1) After relevant physical data or a sample is taken under this schedule, there shall be recorded as soon as is reasonably practicable any of the following which apply—
 - (a) the fact that the appropriate consent has been given;
 - (b) any authorisation given under paragraph 5(1) above; and
 - (c) the fact that the person has been informed under paragraph 5(4) above of the giving of such authorisation.
 - (2) A copy of the record shall be sent to the Scottish Ministers for transmission to the ICC together with the material obtained under this schedule.

Destruction of prints and samples

- 7 Subsections (3) to (5) of section 18 of the Criminal Procedure (Scotland) Act 1995 (c. 46) (destruction of prints or samples) shall apply in relation to relevant physical data and samples taken under this schedule in connection with the investigation of an ICC crime as they apply in relation to relevant physical data and samples taken in connection with the investigation of an offence under the law of Scotland.