

POLICE, PUBLIC ORDER AND CRIMINAL JUSTICE (SCOTLAND) ACT 2006 (ASP 10)

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part Three: Criminal Justice

Powers in relation to suspects and witnesses

Section 81 – Power to require giving of certain information in addition to name and address

171. This section amends section 13 of the Criminal Procedure (Scotland) Act 1995 (“the 1995 Act”) (which gives police constables certain powers in relation to suspects and witnesses). Section 13(1)(a) of the 1995 Act empowers a constable to require persons whom they suspect of committing an offence to tell them their name and address. Subsection (3) inserts a new section 13(1A) into the 1995 Act which enables a constable to require a suspect or a potential witness to an offence also to provide details of their nationality, date of birth, and such details of their place of birth as the constable considers necessary or expedient for establishing the person’s identity. A failure to provide this information without reasonable excuse is an offence.
172. Subsection (6) amends section 14 of the 1995 Act. Section 14(9) of that Act provides that a person who has been detained is under no obligation to also provide any information to the police, other than their name and address. The amendments made by subsection (6) will put a person under an obligation also to inform the police of their nationality, date of birth, and such details of their place of birth as the constable considers necessary or expedient for establishing that person’s identity. It will not be an offence if a person does not provide this information to the police.
173. A revised version of section 13 and 14 of the 1995 Act, as amended by this Act is contained at Annex B.

Section 82 – Power to take fingerprints to establish identity of suspect

174. This section amends section 13 of the 1995 Act to give police officers the power to take fingerprints to verify the identity of someone suspected of having committed an offence and to establish if that person has committed any other offences. Constables will be able to use this power in any place, enabling them to take fingerprints outside a police station. The power will be used by officers to confirm the identity of a suspect by checking these fingerprints against records in existing databases. Subsection (2) of this section requires that fingerprints taken for these purposes must be destroyed as soon as they have been used. They cannot be retained by the police.
175. Subsection (6) amends section 13(6) of the 1995 Act and provides that it will be an offence for a person to refuse to allow a constable to take fingerprints. Subsection (8) inserts a new section 13(8) into the 1995 Act which provides that a device which is used

*These notes relate to the Police, Public Order and Criminal Justice (Scotland)
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for taking fingerprints must be approved by an order made by the Scottish Ministers.
Such an order will not be subject to any parliamentary procedures.

176. A revised version of section 13 of the 1995 Act, as amended by this Act is contained at Annex B.