



# Police and Criminal Evidence Act 1984

## 1984 CHAPTER 60

### PART V

#### QUESTIONING AND TREATMENT OF PERSONS BY POLICE

#### 63 Other samples.

- (1) Except as provided by this section, a non-intimate sample may not be taken from a person without the appropriate consent.
  - (2) Consent to the taking of a non-intimate sample must be given in writing.
  - (3) A non-intimate sample may be taken from a person without the appropriate consent if—
    - (a) he is in police detention or is being held in custody by the police on the authority of a court; and
    - (b) an officer of at least the rank of [<sup>F1</sup>inspector] authorises it to be taken without the appropriate consent.
- [<sup>F2</sup>(3A) A non-intimate sample may be taken from a person (whether or not he falls within subsection (3)(a) above) without the appropriate consent if—
- (a) he has been charged with a recordable offence or informed that he will be reported for such an offence; and
  - (b) either he has not had a non-intimate sample taken from him in the course of the investigation of the offence by the police or he has had a non-intimate sample taken from him but either it was not suitable for the same means of analysis or, though so suitable, the sample proved insufficient.
- (3B) A non-intimate sample may be taken from a person without the appropriate consent if he has been convicted of a recordable offence.]
- [<sup>F3</sup>(3C) A non-intimate sample may also be taken from a person without the appropriate consent if he is a person to whom section 2 of the Criminal Evidence (Amendment) Act 1997 applies (persons detained following acquittal on grounds of insanity or finding of unfitness to plead).]

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- (4) An officer may only give an authorisation under subsection (3) above if he has reasonable grounds—
- (a) for suspecting the involvement of the person from whom the sample is to be taken in a [<sup>F4</sup>recordable offence]; and
  - (b) for believing that the sample will tend to confirm or disprove his involvement.
- (5) An officer may give an authorisation under subsection (3) above orally or in writing but, if he gives it orally, he shall confirm it in writing as soon as is practicable.
- [<sup>F5</sup>(5A) An officer shall not give an authorisation under subsection (3) above for the taking from any person of a non-intimate sample consisting of a skin impression if—
- (a) a skin impression of the same part of the body has already been taken from that person in the course of the investigation of the offence; and
  - (b) the impression previously taken is not one that has proved insufficient.]
- (6) Where—
- (a) an authorisation has been given; and
  - (b) it is proposed that a non-intimate sample shall be taken in pursuance of the authorisation,
- an officer shall inform the person from whom the sample is to be taken—
- (i) of the giving of the authorisation; and
  - (ii) of the grounds for giving it.
- (7) The duty imposed by subsection 6(ii) above includes a duty to state the nature of the offence in which it is suspected that the person from whom the sample is to be taken has been involved.
- (8) If a non-intimate sample is taken from a person by virtue of subsection (3) above—
- (a) the authorisation by virtue of which it was taken; and
  - (b) the grounds for giving the authorisation,
- shall be recorded as soon as is practicable after the sample is taken.
- [<sup>F6</sup>(8A) In a case where by virtue of subsection (3A) [<sup>F7</sup>, (3B) or (3C) above] a sample is taken from a person without the appropriate consent—
- (a) he shall be told the reason before the sample is taken; and
  - (b) the reason shall be recorded as soon as practicable after the sample is taken.]
- [<sup>F8</sup>(8B) If a non-intimate sample is taken from a person at a police station, whether with or without the appropriate consent—
- (a) before the sample is taken, an officer shall inform him that it may be the subject of a speculative search; and
  - (b) the fact that the person has been informed of this possibility shall be recorded as soon as practicable after the sample has been taken.]
- (9) If a non-intimate sample is taken from a person detained at a police station, the matters required to be recorded by subsection (8) [<sup>F9</sup>or (8A)] [<sup>F10</sup>or (8B)] above shall be recorded in his custody record.
- [<sup>F11</sup>(9ZA) The power to take a non-intimate sample from a person without the appropriate consent shall be exercisable by any constable.]
- [<sup>F12</sup> Subsection (3B) above shall not apply to any person convicted before 10th April 1995
- <sup>F13</sup>(9A) unless he is a person to whom section 1 of the Criminal Evidence (Amendment) Act

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1997 applies (persons imprisoned or detained by virtue of pre-existing conviction for sexual offence etc.).]]

[<sup>F14</sup>(10) Nothing in this section applies to a person arrested or detained under the terrorism provisions.]

[<sup>F15</sup>(11) Nothing in this section applies to a person arrested under an extradition arrest power.]

#### Textual Amendments

- F1** Word in s. 63(3)(b) substituted (1.4.2003) by 2001 c. 16, ss. 80(1), 138(2); S.I. 2003/708, **art. 2(h)**
- F2** S. 63(3A)(3B) inserted (10.4.1995) by 1994 c. 33, **s. 55(2)**; S.I. 1995/721, art. 2, **Sch.**
- F3** S. 63(3C) inserted (19.3.1997) by 1997 c. 17, **s. 2(1)(2)(a)(3)-(7)**
- F4** Words in s. 63(4)(a) substituted (10.4.1995) by 1994 c. 33, **s. 55(3)**; S.I. 1995/721, art. 2, **Sch.**
- F5** S. 63(5A) inserted (1.1.2003) by 2001 c. 16, s. 80(3); S.I. 2002/3032, **art. 2(b)**
- F6** S. 63(8A) inserted (10.4.1995) by 1994 c. 33, **s. 55(4)**; S.I. 1995/721, art. 2, **Sch.**
- F7** Words in s. 63(8A) substituted (19.3.1997) by 1997 c. 17, **s. 2(1)(2)(b)(3)-(7)**
- F8** S. 63(8B) inserted (10.4.1995) by 1994 c. 33, s. 168(2), **Sch. 10 para. 58(a)**; S.I. 1995/721, art. 2, **Sch. Appendix A**
- F9** Words in s. 63(9) inserted (10.4.1995) by 1994 c. 33, **s. 55(5)**; S.I. 1995/721, art. 2, **Sch.**
- F10** Words in s. 63(9) inserted (10.4.1995) by 1994 c. 33, s. 168(2), **Sch. 10 para. 58(b)**; S.I. 1995/721, art. 2, **Sch. Appendix A**
- F11** S. 63(9ZA) inserted (2.12.2002) by Police Reform Act 2002 (c. 30), s. 107, **Sch. 7 para. 9(4)**; S.I. 2002/2750, **art. 2(b)(ii)**
- F12** S. 63(10) beginning "Subsection (3B) above" inserted (10.4.1995) by 1994 c. 33, **s. 55(6)**; S.I. 1995/721, art. 2, **Sch.**
- F13** S. 63(9A) substituted for the subsection (10) inserted in s. 63 by 1994 c. 33, **s. 55(6)** (19.3.1997) by 1997 c. 17, **s. 1(1)(a)(2)(3)(6)**
- F14** S. 63(10) substituted (19.2.2001) by 2000 c. 11, s. 125, **Sch. 15 para. 5(9)** (with s. 129(1)); S.I. 2001/421, **art. 2**
- F15** S. 63(11) inserted (1.1.2004) by Extradition Act 2003 (c. 41), **ss. 169(4), 221**; S.I. 2003/3103, **art. 2** (subject to savings in Order (as amended by S.I. 2003/3312, art. 2(2) and S.I. 2003/3258, art. 2(2)))

#### Modifications etc. (not altering text)

- C1** S. 63 applied with modifications by S.I. 1985/1800, arts. 3–11, Schs. 1, 2 and 1985/1882, art. 8  
S. 63(1)-(9) applied (with modifications) (10.4.1995) by 1989 c. 4, **s. 15(11)-(14)** (as inserted by 1994 c. 33, s. 168(2), **Sch. 10 para. 62(2)**; S.I. 1995/721, art. 2, **Sch. Appendix A**)  
S. 63(1)-(9) applied (with modifications) (10.4.1995) by 1989 c. 4, **Sch. 5 para. 7(6A)-(6D)** (as inserted by 1994 c. 33, s. 168(2), **Sch. 10 para. 62(3)**; S.I. 1995/721, art. 2, **Sch. Appendix A**)  
S. 63(1)(2)(7) applied (1.2.1997) by S.I. 1997/15, art. 2(1), **Sch.**  
S. 63(3)-(6)(8)-(8B) applied (with modifications) (1.2.1997) by S.I. 1997/15, art. 2(1), **Sch.**
- C2** S. 63 modified (2.8.1993) by S.I. 1993/1813, art. 6, **Sch. 3 para. 3(2)(3)**; s. 63 modified by the said S.I. 1993/1813, art. 6, **Sch. 3 para. 3** as incorporated (with modifications) (1.12.1997) by S.I. 1994/1405, art. 6, **Sch. 3 para. 4**
- C3** S. 63 extended (2.12.2002) Police Reform Act 2002 (c. 30), s. 38, **Sch. 4 Pt. 3 para. 31(a)**; S.I. 2002/2750, **art. 2(a)(ii)(d)**
- C4** S. 63(3B) modified (19.3.1997) by 1997 c. 17, **s. 1(1)(3)-(6)**
- C5** S. 63(6) modified (2.12.2002) Police Reform Act 2002 (c. 30), s. 38, **Sch. 4 Pt. 3 para. 31(b)**; S.I. 2002/2750, **art. 2(a)(ii)(d)**
- C6** S. 63(8B)(a) modified (2.12.2002) by Police Reform Act 2002 (c. 30), s. 38, **Sch. 4 Pt. 3 para. 31(c)**; S.I. 2002/2750, **art. 2(a)(ii)(d)**

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