



Criminal Procedure (Scotland) Act 1995

1995 CHAPTER 46

PART II

POLICE FUNCTIONS

Prints and samples

18 Prints, samples etc. in criminal investigations

- (1) This section applies where a person has been arrested and is in custody or is detained under section 14(1) of this Act.
- (2) A constable may take from the person fingerprints, palm prints and such other prints and impressions of an external part of the body as the constable may, having regard to the circumstances of the suspected offence in respect of which the person has been arrested or detained, reasonably consider it appropriate to take.
- (3) Subject to subsection (4) below, all record of any prints or impressions taken under subsection (2) above, all samples taken under subsection (6) below and all information derived from such samples shall be destroyed as soon as possible following a decision not to institute criminal proceedings against the person or on the conclusion of such proceedings otherwise than with a conviction or an order under section 246(3) of this Act.
- (4) The duty under subsection (3) above to destroy samples taken under subsection (6) below and information derived from such samples shall not apply—
 - (a) where the destruction of the sample or the information could have the effect of destroying any sample, or any information derived therefrom, lawfully held in relation to a person other than the person from whom the sample was taken; or
 - (b) where the record, sample or information in question is of the same kind as a record, a sample or, as the case may be, information lawfully held by or on behalf of any police force in relation to the person.
- (5) No sample, or information derived from a sample, retained by virtue of subsection (4) above shall be used—

Status: This is the original version (as it was originally enacted).

- (a) in evidence against the person from whom the sample was taken; or
 - (b) for the purposes of the investigation of any offence.
- (6) A constable may, with the authority of an officer of a rank no lower than inspector, take from the person—
- (a) from the hair of an external part of the body other than pubic hair, by means of cutting, combing or plucking, a sample of hair or other material;
 - (b) from a fingernail or toenail or from under any such nail, a sample of nail or other material;
 - (c) from an external part of the body, by means of swabbing or rubbing, a sample of blood or other body fluid, of body tissue or of other material;
 - (d) from the inside of the mouth, by means of swabbing, a sample of saliva or other material.
- (7) A constable may use reasonable force in exercising any power conferred by subsection (2) or (6) above.
- (8) Nothing in this section shall prejudice—
- (a) any power of search;
 - (b) any power to take possession of evidence where there is imminent danger of its being lost or destroyed; or
 - (c) any power to take prints, impressions or samples under the authority of a warrant.

19 Prints, samples etc. in criminal investigations: supplementary provisions

- (1) This section applies where a person convicted of an offence—
- (a) has not, since the conviction, had a sample, print or impression taken from him; or
 - (b) has (whether before or after the conviction) had a sample, print or impression taken from him but it was not suitable for the means of analysis for which it was taken or, though suitable, was insufficient (either in quantity or in quality) to enable information to be obtained by that means of analysis.
- (2) Where this section applies, a constable may, within the permitted period—
- (a) take from the convicted person fingerprints, palmprints and such other prints and impressions of an external part of the body as the constable reasonably considers it appropriate to take; and
 - (b) with the authority of an officer of a rank no lower than inspector, take from the person any sample mentioned in any of paragraphs (a) to (d) of subsection (6) of section 18 of this Act by the means specified in that paragraph in relation to that sample.
- (3) A constable—
- (a) may require the convicted person to attend a police station for the purposes of subsection (2) above;
 - (b) may, where the convicted person is in legal custody by virtue of section 295 of this Act, exercise the powers conferred by subsection (2) above in relation to the person in the place where he is for the time being.
- (4) In subsection (2) above, “the permitted period” means—

- (a) in a case to which paragraph (a) of subsection (1) above applies, the period of one month beginning with the date of the conviction;
 - (b) in a case to which paragraph (b) of that subsection applies, the period of one month beginning with the date on which a constable of the police force which instructed the analysis receives written intimation that the sample, print or impression was unsuitable or, as the case may be, insufficient as mentioned in that paragraph.
- (5) A requirement under subsection (3)(a) above—
- (a) shall give the person at least seven days' notice of the date on which he is required to attend;
 - (b) may direct him to attend at a specified time of day or between specified times of day.
- (6) Any constable may arrest without warrant a person who fails to comply with a requirement under subsection (3)(a) above.

20 Use of prints, samples etc

Without prejudice to any power to do so apart from this section, prints, impressions and samples lawfully held by or on behalf of any police force or in connection with or as a result of an investigation of an offence and information derived therefrom may be checked against other such prints, impressions, samples and information.