



Criminal Procedure (Scotland) Act 1995

1995 CHAPTER 46

PART II

POLICE FUNCTIONS

Prints and samples

[^{F1}18G Retention of samples etc: national security

(1) This section applies to—

- (a) relevant physical data taken from or provided by a person under section 18(2) (including any taken or provided by virtue of paragraph 20 of Schedule 8 to the Terrorism Act 2000 [^{F2}or by virtue of paragraph 42 of Schedule 3 to the Counter-Terrorism and Border Security Act 2019][^{F3}or paragraph 18 of Schedule 6 to the National Security Act 2023]),
- (b) any sample, or any information derived from a sample, taken from a person under section 18(6) or (6A) (including any taken by virtue of paragraph 20 of Schedule 8 to the Terrorism Act 2000 [^{F4}or by virtue of paragraph 42 of Schedule 3 to the Counter-Terrorism and Border Security Act 2019][^{F5}or paragraph 18 of Schedule 6 to the National Security Act 2023]),
- (c) any relevant physical data, sample or information derived from a sample taken from, or provided by, a person under section 19AA(3),
- (d) any relevant physical data, sample or information derived from a sample which is held by virtue of section 56 of the Criminal Justice (Scotland) Act 2003, and
- (e) any relevant physical data, sample or information derived from a sample taken from a person—
 - (i) by virtue of any power of search,
 - (ii) by virtue of any power to take possession of evidence where there is immediate danger of its being lost or destroyed, or
 - (iii) under the authority of a warrant.

Changes to legislation: Criminal Procedure (Scotland) Act 1995, Section 18G is up to date with all changes known to be in force on or before 14 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (2) The relevant physical data, sample or information derived from a sample may be retained for so long as a national security determination made by [^{F6}the chief constable of the Police Service of Scotland] has effect in relation to it.
- (3) A national security determination is made if [^{F7}the chief constable of the Police Service of Scotland] determines that is necessary for the relevant physical data, sample or information derived from a sample to be retained for the purposes of national security.
- (4) A national security determination—
- (a) must be made in writing,
 - (b) has effect for a maximum of [^{F8}5 years] beginning with the date on which the determination is made, and
 - (c) may be renewed.
- (5) Any relevant physical data, sample or information derived from a sample which is retained in pursuance of a national security determination must be destroyed as soon as possible after the determination ceases to have effect (except where its retention is permitted by any other enactment).

^{F9}(6)]

Textual Amendments

- F1** S. 18G inserted (31.10.2013) by Protection of Freedoms Act 2012 (c. 9), s. 120, **Sch. 1 para. 6(3)** (with s. 97); S.I. 2013/1814, art. 2(k)
- F2** Words in s. 18G(1)(a) inserted (13.8.2020) by Counter-Terrorism and Border Security Act 2019 (c. 3), s. 27(2)(d), **Sch. 4 para. 22(2)(a)**; S.I. 2020/792, reg. 2(i)
- F3** Words in s. 18G(1)(a) inserted (20.12.2023) by The National Security Act 2023 (Consequential Amendments of Primary Legislation) Regulations 2023 (S.I. 2023/1386), reg. 1(2), **Sch. para. 14**
- F4** Words in s. 18G(1)(b) inserted (13.8.2020) by Counter-Terrorism and Border Security Act 2019 (c. 3), s. 27(2)(d), **Sch. 4 para. 22(2)(b)**; S.I. 2020/792, reg. 2(i)
- F5** Words in s. 18G(1)(b) inserted (20.12.2023) by The National Security Act 2023 (Consequential Amendments of Primary Legislation) Regulations 2023 (S.I. 2023/1386), reg. 1(2), **Sch. para. 14**
- F6** Words in s. 18G(2) substituted (13.8.2020) by Counter-Terrorism and Border Security Act 2019 (c. 3), s. 27(2)(b), **Sch. 2 para. 7(2)**; S.I. 2020/792, reg. 2(e)
- F7** Words in s. 18G(3) substituted (13.8.2020) by Counter-Terrorism and Border Security Act 2019 (c. 3), s. 27(2)(b), **Sch. 2 para. 7(3)**; S.I. 2020/792, reg. 2(e)
- F8** Words in s. 18G(4)(b) substituted (13.8.2020) by Counter-Terrorism and Border Security Act 2019 (c. 3), s. 27(2)(b), **Sch. 2 para. 7(4)** (with s. 25(7)(8)); S.I. 2020/792, reg. 2(e)
- F9** S. 18G(6) omitted (13.8.2020) by virtue of Counter-Terrorism and Border Security Act 2019 (c. 3), s. 27(2)(b), **Sch. 2 para. 7(5)**; S.I. 2020/792, reg. 2(e)

Changes to legislation:

Criminal Procedure (Scotland) Act 1995, Section 18G is up to date with all changes known to be in force on or before 14 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

[View outstanding changes](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 5A inserted by 2010 asp 13 Sch. 7 para. 26
- s. 13(1B)(1C) inserted by 2006 asp 10 s. 82(2)
- s. 13(2)(aa) inserted by 2006 asp 10 s. 82(3)(b)
- s. 13(3A) inserted by 2006 asp 10 s. 82(4)
- s. 13(5)(ba) inserted by 2006 asp 10 s. 82(5)(a)
- s. 13(6)(a)(iii) and word inserted by 2006 asp 10 s. 82(6)(b)
- s. 13(8) inserted by 2006 asp 10 s. 82(7)
- s. 22(5A) inserted by 2007 asp 6 s. 7(2)(g)
- s. 22A(1A) inserted by 2023 asp 4 s. 1(2)
- s. 23B(1)(1A) substituted for s. 23B(1) by 2023 asp 4 s. 2(2)(a)
- s. 23B(6A) inserted by 2023 asp 4 s. 1(3)(c)
- s. 23B(8)-(10) inserted by 2023 asp 4 s. 2(2)(c)
- s. 23C(1A) inserted by 2023 asp 4 s. 2(3)(b)
- s. 23C(3) inserted by 2023 asp 4 s. 2(3)(c)
- s. 24(2C) inserted by 2023 asp 4 s. 4(4)
- s. 24(2AA) inserted by 2023 asp 4 s. 4(2)
- s. 73A inserted by 2004 asp 3 s. 2(3)
- s. 167(7D)(7E) inserted by 2007 asp 17 sch. 4 para. 1(3)
- s. 167(7D) words substituted by 2010 asp 13 Sch. 3 para. 16(2)
- s. 167(7E) words substituted by 2010 asp 13 Sch. 3 para. 16(3)
- s. 194ZA repealed by 2014 asp 18 sch. 3 para. 25
- s. 200A inserted by 2016 asp 1 s. 85
- s. 205A added by 1997 c. 48 s. 1(1) (This amendment not applied to legislation.gov.uk. 1997 c. 48, s. 1 repealed (27.6.2003) without ever being in force by 2003 asp 7, s. 19(3); S.S.I. 2003/288, art. 2, Sch.)
- s. 210ZA inserted by 2023 asp 4 s. 5
- s. 249(4A)-(4D) inserted by 2014 asp 1 s. 24
- s. 271D(4A) inserted by 2019 asp 8 s. 6(4)
- s. 271F(2)(aa) inserted by 2019 asp 8 s. 10(4)
- s. 271AA inserted by 2019 asp 8 s. 6(2)
- s. 271BZD inserted by 2019 asp 8 s. 3(2)
- s. 288AB288AC inserted by 2024 asp 1 s. 32(3)
- Sch. 5A added by 1997 c. 48 s. 1(2) (This amendment not applied to legislation.gov.uk. 1997 c. 48, s. 1 repealed (27.6.2003) without ever being in force by 2003 asp 7, s. 19(3); S.S.I. 2003/288, art. 2, Sch.)