

SCHEDULES

SCHEDULE 2

SECTIONS 63 AND 63A OF THE POLICE AND CRIMINAL EVIDENCE ACT 1984, AS AMENDED

Section 63

Other samples

- 63 (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 superintendent authorises it to be taken without the appropriate consent.
- (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.
- (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).
- (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 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.

- (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.
- (8A) In a case where by virtue of subsection (3A), (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.
- (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) or (8A) or (8B) above shall be recorded in his custody record.
- (9A) Subsection (3B) above shall not apply to any person convicted before 10th April 1995 unless he is a person to whom section 1 of the Criminal Evidence (Amendment) Act 1997 applies (persons imprisoned or detained by virtue of pre-existing conviction for sexual offence etc.).
- (10) Nothing in this section, except as provided in section 15(13) and (14) of, and paragraph 7(6C) and (6D) of Schedule 5 to, the Prevention of Terrorism (Temporary Provisions) Act 1989, applies to a person arrested or detained under the terrorism provisions.