

## SCHEDULES

### SCHEDULE 2

Section 6.

#### 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.

### *Section 63A*

#### *Fingerprints and samples: supplementary provisions*

- 63A (1) Where a person has been arrested on suspicion of being involved in a recordable offence or has been charged with such an offence or has been informed that he will be reported for such an offence, fingerprints or samples or the information derived from samples taken under any power conferred by this Part of this Act from the person may be checked against—

- (a) other fingerprints or samples to which the person seeking to check has access and which are held by or on behalf of a police force (or police forces) falling within subsection (1A) below or are held in connection with or as a result of an investigation of an offence;
- (b) information derived from other samples if the information is contained in records to which the person seeking to check has access and which are held as mentioned in paragraph (a) above.
- (1A) Each of the following police forces falls within this subsection—
- (a) a police force within the meaning given by section 62 of the Police Act 1964 (which relates to England and Wales);
- (b) a police force within the meaning given by section 50 of the Police (Scotland) Act 1967;
- (c) the Royal Ulster Constabulary and the Royal Ulster Constabulary Reserve;
- (d) the States of Jersey Police Force;
- (e) the salaried police force of the Island of Guernsey;
- (f) the Isle of Man Constabulary.
- (2) Where a sample of hair other than pubic hair is to be taken the sample may be taken either by cutting hairs or by plucking hairs with their roots so long as no more are plucked than the person taking the sample reasonably considers to be necessary for a sufficient sample.
- (3) Where any power to take a sample is exercisable in relation to a person the sample may be taken in a prison or other institution to which the Prison Act 1952 applies.
- (3A) Where—
- (a) the power to take a non-intimate sample under section 63(3B) above is exercisable in relation to any person who is detained under Part III of the Mental Health Act 1983 in pursuance of—
- (i) a hospital order or interim hospital order made following his conviction for the recordable offence in question, or
- (ii) a transfer direction given at a time when he was detained in pursuance of any sentence or order imposed following that conviction, or
- (b) the power to take a non-intimate sample under section 63(3C) above is exercisable in relation to any person,
- the sample may be taken in the hospital in which he is detained under that Part of that Act.
- Expressions used in this subsection and in the Mental Health Act 1983 have the same meaning as in that Act.
- (3B) Where the power to take a non-intimate sample under section 63(3B) above is exercisable in relation to a person detained in pursuance of directions of the Secretary of State under section 53 of the Children and Young Persons Act 1933 the sample may be taken at the place where he is so detained.
- (4) Any constable may, within the allowed period, require a person who is neither in police detention nor held in custody by the police on the authority of a court to attend a police station in order to have a sample taken where—
- (a) the person has been charged with a recordable offence or informed that he will be reported for such an offence and either he has not had a sample taken

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

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- from him in the course of the investigation of the offence by the police or he has had a sample so taken from him but either it was not suitable for the same means of analysis or, though so suitable, the sample proved insufficient;
- (b) the person has been convicted of a recordable offence and either he has not had a sample taken from him since the conviction or he has had a sample taken from him (before or after his conviction) but either it was not suitable for the same means of analysis or, though so suitable, the sample proved insufficient.
- (5) The period allowed for requiring a person to attend a police station for the purpose specified in subsection (4) above is—
- (a) in the case of a person falling within paragraph (a), one month beginning with the date of the charge or of his being informed as mentioned in that paragraph or one month beginning with the date on which the appropriate officer is informed of the fact that the sample is not suitable for the same means of analysis or has proved insufficient, as the case may be;
- (b) in the case of a person falling within paragraph (b), one month beginning with the date of the conviction or one month beginning with the date on which the appropriate officer is informed of the fact that the sample is not suitable for the same means of analysis or has proved insufficient, as the case may be.
- (6) A requirement under subsection (4) above—
- (a) shall give the person at least 7 days within which he must so attend; and
- (b) may direct him to attend at a specified time of day or between specified times of day.
- (7) Any constable may arrest without a warrant a person who has failed to comply with a requirement under subsection (4) above.
- (8) In this section “the appropriate officer” is—
- (a) in the case of a person falling within subsection (4)(a), the officer investigating the offence with which that person has been charged or as to which he was informed that he would be reported;
- (b) in the case of a person falling within subsection (4)(b), the officer in charge of the police station from which the investigation of the offence of which he was convicted was conducted.