Crime and Punishment (Scotland) Act 1997

1997 CHAPTER 48

PART IV

POLICE

Collection and use of records

47 Record of evidence taken from external parts of body.

(1) In section 18 of the 1995 Act (prints and samples in criminal investigations)—

(a) in subsection (2)—

(i) for the words from "fingerprints" to "body" there shall be substituted the words " , or require the person to provide him with, such relevant physical data "; and

(ii) at the end there shall be inserted the words " from him or require him to provide, and the person so required shall comply with that requirement ";

(b) in subsection (3), for the words from "prints or impressions taken", there shall be substituted the words " relevant physical data taken from or provided by a person ";

(c) subsection (7) shall cease to have effect; and

(d) after subsection (7) there shall be inserted the following subsections—

"(7A) For the purposes of this section and sections 19 to 20 of this Act "relevant physical data" means any—

(a) fingerprint;

(b) palm print;

(c) print or impression other than those mentioned in paragraph (a) and (b) above, of an external part of the body;

Changes to legislation: *There are currently no known outstanding effects for the Crime and Punishment (Scotland) Act 1997, Section 47. (See end of Document for details)*

(d) record of a person's skin on an external part of the body created by a device approved by the Secretary of State.

(7B) The Secretary of State by order made by statutory instrument may approve a device for the purpose of creating such records as are mentioned in paragraph (d) of subsection (7A) above.".

(2) In section 19 of the 1995 Act (taking of prints etc from convicted persons)—

(a) in subsection (1)—

(i) in paragraph (a), for the words "a sample, print or impression" there shall be substituted the words " taken from him, or been required to provide, any relevant physical data or had any impression or sample "; and

(ii) in paragraph (b), for the words from "(whether" to "taken", in the second place where it occurs, there shall be substituted the words "at any time had—

(i) taken from him or been required (whether under paragraph (a) above or under section 18 or 19A of this Act or otherwise) to provide any relevant physical data; or

(ii) any impression or sample taken from him,

which was not suitable for the means of analysis for which the data were taken or required or the impression or sample was taken ";

(b) for paragraph (a) of subsection (2), there shall be substituted the following paragraph—

"(a) take from or require the convicted person to provide him with such relevant physical data as he reasonably considers it appropriate to take or, as the case may be, require the provision of;"; and

(c) in subsection (4)(b)—

(i) after the words "intimation that" there shall be inserted the words " the relevant physical data were or "; and

(ii) the words ", print or impression" shall cease to have effect.

(3) In section 20 of the 1995 Act (use of prints etc.)—

(a) for the word "prints", in the place where it first occurs, there shall be substituted the words " relevant physical data "; and

(b) for the word "prints", in the place where it second occurs, there shall be substituted the word " data ".

(4) In section 284 of the 1995 Act (evidence in relation to fingerprints)—

(a) in subsection (1)—

(i) for the words "two constables" there shall be substituted the words " a person authorised in that behalf by a chief constable "; and

(ii) for the words from "the fingerprints" to "from" there shall be substituted the words " relevant physical data (within the meaning of section 18(7A) of this Act) was taken from or provided by ";

(b) for subsection (2) there shall be substituted the following subsections—

"(2) A party proposing to rely on subsection (1) above ("the first party") shall, not less than 14 days before the trial diet, serve on any other

party to the proceedings a copy of the certificate, and such other party shall not be entitled to challenge the sufficiency of the evidence contained within the certificate.

(2A) Where the first party does not serve a copy of the certificate on any other party as mentioned in subsection (2) above, he shall not be entitled to rely on subsection (1) above as respects that party.”.

(5) In section 285 of the 1995 Act (proof of previous convictions), after subsection (9) there shall be inserted the following subsection—

“(10) In this section “fingerprint” includes any record of the skin of a person’s finger created by a device approved by the Secretary of State under section 18(7B) of this Act.”.

Commencement Information

I1 S. 47 wholly in force at 17.11.1997; s. 47 not in force at Royal Assent see s. 65(2); s. 47(1)(a)(b)(d)(2)-(5) in force at 1.8.1997 by S.I. 1997/1712, art. 3, **Sch.** (with arts. 4, 5); s. 47 in force insofar as not already in force at 17.11.1997 by S.I. 1997/2694, **art. 2(1)(2)(a)**

Changes to legislation:
There are currently no known outstanding effects for the Crime and Punishment (Scotland) Act 1997, Section 47.