
Changes to legislation: International Criminal Court Act 2001, SCHEDULE 4 is up to date with all changes known to be in force on or before 20 February 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

SCHEDULES

SCHEDULE 4

Section 34(1).

TAKING OF FINGERPRINTS OR NON-INTIMATE SAMPLES

Nomination of court to supervise taking of evidence

- 1 (1) Where the Secretary of State receives a request from the ICC for assistance in obtaining evidence as to the identity of a person, he may nominate a court in England and Wales or Northern Ireland to supervise the taking of the person's fingerprints or a non-intimate sample (or both).
- (2) He shall not do so unless—
 - (a) he is satisfied that other means of identification have been tried and have proved inconclusive, and
 - (b) he has notified the ICC of that fact and the ICC has signified that it wishes to proceed with the request.

Order to provide evidence

- 2 (1) The nominated court may order the taking by a constable of the person's fingerprints or a non-intimate sample (or both).
- (2) In the case of a non-intimate sample—
 - (a) the sample must be a sufficient sample within the meaning of section 65 of the Police and Criminal Evidence Act 1984 (c. 60) or, in Northern Ireland, Article 53 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I.12)), and
 - (b) section 63A(2) of that Act or, in Northern Ireland, Article 63A(2) of that Order applies as to the manner of taking the sample.
- (3) In the following provisions of this Schedule "the necessary identification evidence" means the fingerprints or sample (or both) required by the order of the nominated court.

Requirement to attend and provide evidence

- 3 (1) The order of the nominated court may require the person to attend a police station to provide the necessary identification evidence.
- (2) Any such requirement—
 - (a) shall give the person at least seven 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.
- (3) If the person fails to attend in accordance with the order—
 - (a) the nominated court may issue a warrant for his arrest, and

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- (b) the person may be detained for such period as is necessary to enable the necessary identification evidence to be taken.

The court shall inform the person concerned of the effect of this sub-paragraph.

- (4) Sub-paragraphs (1) to (3) do not apply where the person concerned is in prison or is otherwise lawfully detained.

In that case the necessary identification evidence may be taken at the place where he is detained or at such other place as the nominated court may direct.

Consent to taking of evidence

- 4 (1) The necessary identification evidence may be taken—
- (a) with the appropriate consent given in writing, or
 - (b) without that consent, in accordance with paragraph 5.
- (2) In sub-paragraph (1) “the appropriate consent” has the meaning given by section 65 of the Police and Criminal Evidence Act 1984 or, in Northern Ireland, Article 53 of the Police and Criminal Evidence (Northern Ireland) Order 1989.
- (3) The court shall inform the person concerned of the effect of this paragraph.

Taking of evidence without consent

- 5 (1) A constable may, if authorised by an officer of the rank of superintendent or above, take the necessary identification evidence without consent.
- (2) An officer may give an authorisation under sub-paragraph (1) orally or in writing, but if he gives it orally he shall confirm it in writing as soon as is reasonably practicable.
- (3) Before fingerprints or a sample are taken from a person upon an authorisation given under sub-paragraph (1), he shall be informed that the authorisation has been given.

Record of certain matters to be made

- 6 (1) After fingerprints or a sample are taken under this Schedule, there shall be recorded as soon as is reasonably practicable any of the following which apply—
- (a) the fact that the appropriate consent has been given,
 - (b) any authorisation given under paragraph 5(1), and
 - (c) the fact that the person has been informed under paragraph 5(3) of the giving of such authorisation.
- (2) A copy of the record shall be sent to the Secretary of State for transmission to the ICC together with the material obtained under this Schedule.

Checking of fingerprints or samples

- 7 (1) This paragraph applies to—
- (a) fingerprints or samples taken under this Schedule, and
 - (b) information derived from such samples.

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- (2) The fingerprints, samples or information may be used only for the purpose of an investigation into a relevant offence.
- (3) In particular, a check may not be made against them under—
 - (a) section 63A(1) [F1, (1E) or (1F)] of the Police and Criminal Evidence Act 1984 (c. 60) (checking of fingerprints and samples), or
 - (b) Article 63A(1) of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12)) (checking of fingerprints and samples),except for the purpose of an investigation into a relevant offence.
- (4) The fingerprints, samples or information may be checked, subject to sub-paragraph (2), against—
 - (a) other fingerprints or samples taken under this Schedule or information derived from such samples,
 - (b) any of the fingerprints, samples and information mentioned in section 63A(1)(a) and (b) of the Police and Criminal Evidence Act 1984 (checking of fingerprints and samples), and
 - (c) any of the fingerprints, samples and information mentioned in Article 63A(1) (a) and (b) of the Police and Criminal Evidence (Northern Ireland) Order 1989 (checking of fingerprints and samples).
- (5) For the purposes of this paragraph a “relevant offence” means an ICC crime or an offence under Part 5 of this Act.
- (6) Before fingerprints or a sample are taken from a person under this Schedule, he shall be informed that they may be used as mentioned in this paragraph.

Textual Amendments

- F1** Words in Sch. 4 para. 7(3)(a) inserted (E.W.N.I) (7.3.2011) by [Crime and Security Act 2010 \(c. 17\)](#), [ss. 5\(2\), 59\(1\)](#); [S.I. 2011/414](#), [art. 2\(b\)](#)

Destruction of fingerprints and samples

- [F28] (1) This paragraph applies to the following material—
 - (a) fingerprints and samples taken under this Schedule, and
 - (b) DNA profiles derived from such samples.
- (2) The material must be destroyed—
 - (a) before the end of the period of 6 months beginning with the date on which the material was transmitted to the ICC (see paragraph 6(2)), or
 - (b) if later, as soon as it has fulfilled the purpose for which it was taken or derived.
- (3) If fingerprints are required to be destroyed by virtue of sub-paragraph (2), any copies of the fingerprints held by the police must also be destroyed.
- (4) If a DNA profile is required to be destroyed by virtue of sub-paragraph (2), no copy may be retained by the police except in a form which does not include information from which the person to whom the DNA profile relates can be identified.
- (5) In this paragraph—

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“DNA profile” means any information derived from a DNA sample;
“DNA sample” means any material that has come from a human body and consists of or includes human cells.]

Textual Amendments

F2 Sch. 4 para. 8 substituted (31.10.2013) by Protection of Freedoms Act 2012 (c. 9), s. 120, **Sch. 1 para. 2** (with s. 97); S.I. 2013/1814, art. 2(k)

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Changes and effects yet to be applied to :

- Sch. 4 para. 8 substituted by [2010 c. 17 s. 19](#) (This amendment not applied to legislation.gov.uk. Ss. 16-19 repealed (31.10.2013) without ever being in force by 2012 c. 9, Sch. 9 para. 4(2), Sch. 10 Pt. 1; S.I. 2013/2104, art. 3(c)(d))
- Sch. 4 para. 7(3)(b) words inserted by [2010 c. 17 s. 11\(2\)](#)