



Counter-Terrorism Act 2008

2008 CHAPTER 28

PART 1

POWERS TO GATHER AND SHARE INFORMATION

Power to take fingerprints and samples from person subject to control order

10 Power to take fingerprints and samples: England and Wales

- (1) In section 61 of the Police and Criminal Evidence Act 1984 (c. 60) (fingerprinting), after subsection (6B) insert—

“(6BA) A constable may take a person’s fingerprints without the appropriate consent if the person is subject to a control order.”.

- (2) In section 63 of that Act (other samples), after subsection (3C) insert—

“(3D) A non-intimate sample may also be taken from a person without the appropriate consent if the person is subject to a control order.”.

- (3) In section 63A of that Act (fingerprints and samples: supplementary provisions)—

- (a) in subsection (1) (checking against other fingerprints or samples), after “reported for such an offence” insert “or he is or has been subject to a control order”;

- (b) after subsection (6) insert—

“(6A) A constable may require a person who is subject to a control order to attend a police station in order to—

- (a) have his fingerprints taken in accordance with section 61(6BA);
- (b) have a non-intimate sample taken in accordance with section 63(3D).”.

- (4) In section 64 of that Act (destruction of fingerprints and samples), after subsection (1A) insert—

Status: This is the original version (as it was originally enacted).

“(1AA) Where fingerprints or samples are taken from a person who is subject to a control order the fingerprints or samples may be retained after they have fulfilled the purposes for which they were taken but shall not be used by any person except as described in subsection (1AB).”.

(5) In section 65(1) of that Act (interpretation), at the appropriate places insert—

““control order” has the same meaning as in the Prevention of Terrorism Act 2005;”;

““person subject to a control order” means a person who has become bound by a control order (see section 7(8) of the Prevention of Terrorism Act 2005) that remains in force;”.

(6) The following amendments of that Act are consequential on those above—

(a) in section 61—

- (i) in subsection (6C) after “subsection (6A)” insert “or (6BA)”;
- (ii) in subsection (7) for “or (6A)” substitute “, (6A) or (6BA)”;
- (iii) in subsection (7A) after “subsection (6A)”, in both places where it occurs, insert “or (6BA)”;

(b) in section 63 (other samples)—

- (i) in subsection (8A) for “or (3C)” substitute “, (3C) or (3D)”;
- (ii) in the opening words of subsection (8B) after “police station” insert “or by virtue of subsection (3D) at a place other than a police station”;
- (iii) in paragraph (a) of that subsection after “officer” insert “, or, in a subsection (3D) case, a constable;”;

(c) in section 63A(7) after “subsection (4)” insert “or (6A)”;

(d) in section 64(1B) after “subsection (1A)” insert “, (1AA)”.

11 Power to take fingerprints and samples: Scotland

(1) This section applies in relation to a person who is subject to a control order in Scotland.

(2) A constable may—

- (a) take from the person, or require the person to provide, any relevant physical data,
- (b) with the authority of an officer of a rank no lower than inspector, take from the person any sample mentioned in paragraph (a), (b) or (c) of subsection (6) of section 18 (prints, samples etc. in criminal investigations) of the Criminal Procedure (Scotland) Act 1995 (c. 46) (“the 1995 Act”) by the means specified in that paragraph in relation to the sample,
- (c) take, or direct a police custody and security officer to take, from the person a sample mentioned in subsection (6A) of that section by the means specified in that subsection.

(3) A constable may—

- (a) require the person to attend a police station for the purposes of subsection (2), and
- (b) arrest without warrant a person who fails to comply with such a requirement.

(4) A constable may use reasonable force in—

- (a) taking any relevant physical data under subsection (2)(a),

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

- (b) securing compliance with a requirement imposed by the constable under that subsection, or
 - (c) taking any sample under subsection (2)(b).
- (5) A constable may, with the authority of an officer of a rank no lower than inspector, use reasonable force in taking any sample under subsection (2)(c).
- (6) Any relevant physical data or sample obtained under this section, and information derived from it, may be retained but may not be used by any person except—
 - (a) for the purposes of a terrorist investigation, or
 - (b) in the interests of national security.
- (7) Subject to subsection (6), any data or sample obtained under this section, or information derived from it, may, in particular, be checked against—
 - (a) other such data, samples or information,
 - (b) any of the relevant physical data, samples and information to which section 20 of the 1995 Act applies,
 - (c) any of the fingerprints, samples and information mentioned in section 63A(1)(a) and (b) of the Police and Criminal Evidence Act 1984 (c. 60) (checking of fingerprints and samples), and
 - (d) material to which section 18 of this Act applies (material not subject to existing statutory restrictions).
- (8) In this section—
 - “control order” has the same meaning as in the Prevention of Terrorism Act 2005 (c. 2);
 - “person subject to a control order” means a person who has become bound by a control order (see section 7(8) of the Prevention of Terrorism Act 2005) that remains in force;
 - “relevant physical data” has the same meaning as it has for the purposes of section 18 of the 1995 Act (see subsections (7A) and (7B) of that section);
 - “terrorist investigation” has the meaning given in section 32 of the Terrorism Act 2000 (c. 11).

12 Power to take fingerprints and samples: Northern Ireland

- (1) In Article 53(1) of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12)) (interpretation of Part VI), at the appropriate places insert—
 - ““control order” has the same meaning as in the Prevention of Terrorism Act 2005;”;
 - ““person subject to a control order” means a person who has become bound by a control order (see section 7(8) of the Prevention of Terrorism Act 2005) that remains in force;”.
- (2) In Article 61 of that Order (fingerprinting), after paragraph (6B) insert—
 - “(6BA) A constable may take a person’s fingerprints without the appropriate consent if the person is subject to a control order.”.
- (3) In Article 63 of that Order (other samples), after paragraph (3B) insert—

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

“(3C) A non-intimate sample may also be taken from a person without the appropriate consent if the person is subject to a control order.”.

(4) In Article 63A of that Order (fingerprints and samples: supplementary provisions)—

- (a) in paragraph (1) (checking against other fingerprints and samples), after “reported for such an offence” insert “or he is or has been subject to a control order”;
- (b) after paragraph (6) insert—

“(6A) A constable may require a person who is subject to a control order to attend a police station in order to—

- (a) have his fingerprints taken in accordance with Article 61(6BA);
- (b) have a non-intimate sample taken in accordance with Article 63(3C).”.

(5) In Article 64 of that Order (destruction of fingerprints and samples), after paragraph (1A) insert—

“(1AA) Where fingerprints or samples are taken from a person who is subject to a control order the fingerprints or samples may be retained after they have fulfilled the purposes for which they were taken but shall not be used by any person except as described in paragraph (1AB).”.

(6) The following amendments of that Order are consequential on those above—

- (a) in Article 61—
 - (i) in paragraph (6C) after “paragraph (6A)” insert “or (6BA)”;
 - (ii) in paragraph (7) for “or (6A)” substitute “, (6A) or (6BA)”;
 - (iii) in paragraph (7A) after “paragraph (6A)”, in both places where it occurs, insert “or (6BA)”;
- (b) in Article 63—
 - (i) in paragraph (8A) for “or (3B)” substitute “, (3B) or (3C)”;
 - (ii) in the opening words of paragraph (8B) after “police station” insert “or by virtue of paragraph (3C) at a place other than a police station”;
 - (iii) in sub-paragraph (a) of that paragraph after “officer” insert “(or, in a paragraph (3C) case, a constable)”;
- (c) in Article 63A(7) after “paragraph (4)” insert “or (6A)”;
- (d) in Article 64(1B), after “paragraph (1A)” insert “, (1AA)”.

13 Power to take fingerprints and samples: transitional provision

The provisions of—

section 10 (power to take fingerprints and samples: England and Wales),
 section 11 (power to take fingerprints and samples: Scotland), and
 section 12 (power to take fingerprints and samples: Northern Ireland),

have effect from the commencement of the relevant section regardless of when the control order was made.