



# Criminal Justice (Scotland) Act 2003

## 2003 asp 7

### PART 8

#### EVIDENTIAL, JURISDICTIONAL AND PROCEDURAL MATTERS

##### *Evidential matters*

#### **55 Taking samples by swabbing**

- (1) The 1995 Act is amended as follows.
- (2) In section 18 (prints, samples etc. in criminal investigations)—
  - (a) in subsection (6), paragraph (d) is repealed; and
  - (b) after that subsection there is inserted—

“(6A) A constable, or at a constable’s direction a police custody and security officer, may take from the inside of the person’s mouth, by means of swabbing, a sample of saliva or other material.”
- (3) In each of sections 19(2) (prints, samples etc. in criminal investigations: supplementary provisions) and 19A(2)(samples etc. from persons convicted of sexual and violent offences)—
  - (a) the word “and” which immediately follows paragraph (a) is repealed;
  - (b) in paragraph (b), for the word “(d)” there is substituted “(c)”; and
  - (c) after that paragraph there is added the word “ and ” and the following paragraph—

“(c) take, or direct a police custody and security officer to take, from the person any sample mentioned in subsection (6A) of that section by the means specified in that subsection.”
- (4) In section 19B (power of constable in obtaining relevant physical data etc.), the existing provisions become subsection (1); and after that subsection there is added—

“(2) A constable may, with the authority of an officer of a rank no lower than inspector, use reasonable force in (himself) exercising any power conferred by section 18(6A), 19(2)(c) or 19A(2)(c) of this Act.”

**Changes to legislation:**

Criminal Justice (Scotland) Act 2003, Section 55 is up to date with all changes known to be in force on or before 30 March 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.

[View outstanding changes](#)

**Changes and effects yet to be applied to :**

- specified provision(s) and purposes Appointed Day(s) by [S.S.I. 2003/439 art. 23Sch.](#) (Effect not applied to [legislation.gov.uk](#). This S.S.I. is revoked (1.10.2003) by S.S.I. 2003/475, art. 4)

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 16D inserted by [2023 asp 4 s. 14\(3\)](#)
- s. 16ZA inserted by [2023 asp 4 s. 14\(2\)](#)
- s. 17E(6) inserted by [2023 asp 4 s. 14\(7\)\(d\)](#)
- s. 17DA inserted by [2023 asp 4 s. 14\(6\)](#)
- s. 17ZA inserted by [2023 asp 4 s. 14\(4\)](#)
- s. 18A(5) inserted by [2023 asp 4 s. 14\(8\)\(b\)](#)