



Age of Criminal Responsibility (Scotland) Act 2019

2019 asp 7

PART 4

POLICE INVESTIGATORY AND OTHER POWERS

CHAPTER 4

TAKING OF PRINTS AND SAMPLES FROM CERTAIN CHILDREN

Taking of prints and samples in urgent cases

69 Taking of prints and samples in urgent cases

- (1) A constable may, subject to subsection (4), take relevant physical data or a relevant sample from a child if authorised to do so by a relevant senior officer under subsection (2).
- (2) The relevant senior officer may authorise the constable to take relevant physical data or a relevant sample from the child only if that officer is satisfied that—
 - (a) there are reasonable grounds to suspect that the child—
 - (i) by behaving in a violent or dangerous way, has caused or risked causing serious physical harm to another person, or
 - (ii) by behaving in a sexually violent or sexually coercive way, has caused or risked causing harm (whether physical or not) to another person,
 - (b) the taking of relevant physical data or a relevant sample from the child is necessary to properly investigate the child's behaviour and the circumstances surrounding it (including whether a person other than the child has committed an offence), and
 - (c) that it is not practicable to apply for an order under section 63 authorising the taking of that data or sample because of the risk that, if the data or sample is not taken immediately, evidence derived from the data or sample, or the sample, would be lost or destroyed.

Changes to legislation: Age of Criminal Responsibility (Scotland) Act 2019, Cross Heading: Taking of prints and samples in urgent cases is up to date with all changes known to be in force on or before 09 April 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

- (3) In considering the matters mentioned in subsection (2), the relevant senior officer must have regard to—
- (a) the nature and seriousness of the child's behaviour,
 - (b) whether the taking of relevant physical data or relevant samples is appropriate given the child's circumstances (including the child's age and any matter related to the child's behaviour).
- (4) Intimate samples may not be taken from a child under this section.
- (5) In this section, a “relevant senior officer” is an officer—
- (a) of the rank of superintendent or above,
 - (b) who has not been involved in the investigation in connection with which the taking of the relevant physical data or relevant sample is sought.

Modifications etc. (not altering text)

- C1** Pt. 4 applied (with modifications) (17.12.2021) by 2004 c. 20, s. 56B (as inserted by [The Age of Criminal Responsibility \(Scotland\) Act 2019 \(Consequential Provisions and Modifications\) Order 2021 \(S.I. 2021/1458\)](#), arts. 1(1), **19**)
- C2** Pt. 4 applied (with modifications) (17.12.2021) by 1987 c. 4, s. 2E (as inserted by [The Age of Criminal Responsibility \(Scotland\) Act 2019 \(Consequential Provisions and Modifications\) Order 2021 \(S.I. 2021/1458\)](#), arts. 1(1), **17**)
- C3** Pt. 4 applied (with modifications) (17.12.2021) by 2003 c. 20, s. 31B (as inserted by [The Age of Criminal Responsibility \(Scotland\) Act 2019 \(Consequential Provisions and Modifications\) Order 2021 \(S.I. 2021/1458\)](#), arts. 1(1), **18**)

Commencement Information

- I1** S. 69 in force at 17.12.2021 by [S.S.I. 2021/449](#), **reg. 2**

70 Procedure following taking of prints and samples under section 69

- (1) This section applies where any relevant physical data or relevant sample has been taken from a child by virtue of section 69.
- (2) No steps may be taken in relation to the relevant physical data or relevant sample (other than holding and preserving the data or sample) unless and until an order under section 63 authorising the taking of the data or sample is obtained.
- (3) An application for an order under section 63 authorising the taking of the relevant physical data or relevant sample must be made before the end of the period of 7 days beginning with the day on which the data or sample was taken.
- (4) Such an application must, in addition to the matters mentioned in section 61(2), specify the data or sample taken by virtue of section 69.
- (5) The relevant senior officer who authorised the taking of the relevant physical data or relevant samples under section 69(2) must ensure that all record of any data taken and all samples taken are destroyed as soon as reasonably practicable after the earliest of the following events—
 - (a) a decision by the constable who took the data or sample not to apply for an order under section 63,

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- (b) the end of the period mentioned in subsection (3), no application having been made,
- (c) where such an application is made but the sheriff refuses the application—
 - (i) the end of the period for an appeal against the sheriff's decision, no appeal having been taken, or
 - (ii) if an appeal is taken and the sheriff's decision is upheld, the conclusion of the appeal.

Commencement Information

I2 S. 70 in force at 17.12.2021 by [S.S.I. 2021/449](#), [reg. 2](#)

Changes to legislation:

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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. 18(1A) inserted by [2020 asp 13 sch. 5 para. 7\(8\)\(b\)](#)
- s. 20A inserted by [2020 asp 13 sch. 5 para. 7\(9\)](#)