



# 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

###### *Limitation on taking of prints and samples*

#### **58 Limitation on taking prints and samples from children under 12**

- (1) It is unlawful for a constable to take any relevant physical data or relevant sample from a child under 12 years of age except where authorised to do so—
  - (a) by an order under section 63,
  - (b) by virtue of section 69, or
  - (c) by or under any other enactment.
- (2) Subsection (1) does not apply where—
  - (a) an offence appears to have been committed against the child, or
  - (b) the child appears to have been harmed as a result of another child behaving, when under 12 years of age, in a way mentioned in section 63(2)(a),and the taking of relevant physical data or a relevant sample from the child is necessary to properly investigate that offence or, as the case may be, behaviour.
- (3) Relevant physical data or a relevant sample taken from a child in the circumstances and for the purpose mentioned in subsection (2), and any information derived from such a sample, may not be used for the purpose of investigating an incident of a type mentioned in subsection (4).
- (4) The incident is one—

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*Status: This is the original version (as it was originally enacted).*

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- (a) which occurred when the child was under 12 years of age, and
  - (b) in relation to which the constable has 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.
- (5) But subsection (3) does not—
- (a) prohibit the use of the data, sample or information for the purpose of investigating the incident where the child is now 12 years of age or over and consents, or
  - (b) affect the ability of a constable—
    - (i) to apply for an order under section 63 authorising the taking of relevant physical data or a relevant sample from the child for the purpose of investigating the incident, or
    - (ii) to take such data or such a sample for that purpose by virtue of section 69.
- (6) In this Chapter—
- (a) references to taking relevant physical data and relevant samples from a child include references to requiring the child to provide relevant physical data and relevant samples,
  - (b) “child” has the same meaning as in Chapter 3.