



# Criminal Justice and Public Order Act 1994

## 1994 CHAPTER 33

### PART IV

#### POLICE POWERS

##### *Powers of police to take body samples*

#### **54 Powers of police to take intimate body samples.**

- (1) Section 62 of the <sup>M1</sup>Police and Criminal Evidence Act 1984 (regulation of taking of intimate samples) shall be amended as follows.
- (2) After subsection (1) there shall be inserted the following subsection—
  - “(1A) An intimate sample may be taken from a person who is not in police detention but from whom, in the course of the investigation of an offence, two or more non-intimate samples suitable for the same means of analysis have been taken which have proved insufficient—
    - (a) if a police officer of at least the rank of superintendent authorises it to be taken; and
    - (b) if the appropriate consent is given.”.
- (3) In subsection (2)—
  - (a) after the word “authorisation” there shall be inserted the words “ under subsection (1) or (1A) above ”; and
  - (b) in paragraph (a), for the words “serious arrestable offence” there shall be substituted the words “ recordable offence ”.
- (4) In subsection (3), after the words “subsection (1)” there shall be inserted the words “ or (1A) ”.
- (5) <sup>F1</sup> .....

*Status: Point in time view as at 01/01/2006.*

*Changes to legislation: Criminal Justice and Public Order Act 1994, Part IV is up to date with all changes known to be in force on or before 21 May 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)*

**Textual Amendments**

F1 S. 54(5) repealed (1.4.2003) by 2002 c. 30, ss. 107(2), 108(2), Sch. 8; S.I. 2003/808, art. 2(K)(I)(i)

**Marginal Citations**

M1 1984 c. 60.

**55 Powers of police to take non-intimate body samples.**

(1) Section 63 of the Police and Criminal Evidence Act 1984 (regulation of taking of non-intimate samples) shall be amended as follows.

(2) After subsection (3), there shall be inserted the following subsections—

“(3A) A non-intimate sample may be taken from a person (whether or not he falls within subsection (3)(a) above) without the appropriate consent if—

- (a) he has been charged with a recordable offence or informed that he will be reported for such an offence; and
- (b) either he has not had a non-intimate sample taken from him in the course of the investigation of the offence by the police or he has had a non-intimate sample taken from him but either it was not suitable for the same means of analysis or, though so suitable, the sample proved insufficient.

(3B) A non-intimate sample may be taken from a person without the appropriate consent if he has been convicted of a recordable offence.”

(3) In subsection (4), in paragraph (a), for the words “serious arrestable offence” there shall be substituted the words “recordable offence”.

(4) After subsection (8), there shall be inserted the following subsection—

“(8A) In a case where by virtue of subsection (3A) or (3B) a sample is taken from a person without the appropriate consent—

- (a) he shall be told the reason before the sample is taken; and
- (b) the reason shall be recorded as soon as practicable after the sample is taken.”.

(5) In subsection (9), after the words “subsection (8)” there shall be inserted the words “or (8A)”.

F2(6) .....

**Textual Amendments**

F2 S. 55(6) repealed (19.3.1997) by 1997 c. 17, ss. 1(1), 6(3)

**56 Fingerprints and samples: supplementary provisions.**

The following section shall be inserted after section 63 of the <sup>M2</sup>Police and Criminal Evidence Act 1984—

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### **“63A Fingerprints and samples: supplementary provisions.**

- (1) Fingerprints or samples or the information derived from samples taken under any power conferred by this Part of this Act from a person who has been arrested on suspicion of being involved in a recordable offence may be checked against other fingerprints or samples or the information derived from other samples contained in records held by or on behalf of the police or held in connection with or as a result of an investigation of an offence.
- (2) Where a sample of hair other than pubic hair is to be taken the sample may be taken either by cutting hairs or by plucking hairs with their roots so long as no more are plucked than the person taking the sample reasonably considers to be necessary for a sufficient sample.
- (3) Where any power to take a sample is exercisable in relation to a person the sample may be taken in a prison or other institution to which the <sup>M3</sup>Prison Act 1952 applies.
- (4) Any constable may, within the allowed period, require a person who is neither in police detention nor held in custody by the police on the authority of a court to attend a police station in order to have a sample taken where—
  - (a) the person has been charged with a recordable offence or informed that he will be reported for such an offence and either he has not had a sample taken from him in the course of the investigation of the offence by the police or he has had a sample so taken from him but either it was not suitable for the same means of analysis or, though so suitable, the sample proved insufficient; or
  - (b) the person has been convicted of a recordable offence and either he has not had a sample taken from him since the conviction or he has had a sample taken from him (before or after his conviction) but either it was not suitable for the same means of analysis or, though so suitable, the sample proved insufficient.
- (5) The period allowed for requiring a person to attend a police station for the purpose specified in subsection (4) above is—
  - (a) in the case of a person falling within paragraph (a), one month beginning with the date of the charge or one month beginning with the date on which the appropriate officer is informed of the fact that the sample is not suitable for the same means of analysis or has proved insufficient, as the case may be;
  - (b) in the case of a person falling within paragraph (b), one month beginning with the date of the conviction or one month beginning with the date on which the appropriate officer is informed of the fact that the sample is not suitable for the same means of analysis or has proved insufficient, as the case may be.
- (6) A requirement under subsection (4) above—
  - (a) shall give the person at least 7 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.
- (7) Any constable may arrest without a warrant a person who has failed to comply with a requirement under subsection (4) above.

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- (8) In this section “the appropriate officer” is—
- (a) in the case of a person falling within subsection (4)(a), the officer investigating the offence with which that person has been charged or as to which he was informed that he would be reported;
  - (b) in the case of a person falling within subsection (4)(b), the officer in charge of the police station from which the investigation of the offence of which he was convicted was conducted.”.

#### Marginal Citations

**M2** 1984 c. 60.

**M3** 1952 c. 52.

### 57 Retention of samples in certain cases.

- (1) Section 64 of the <sup>M4</sup>Police and Criminal Evidence Act 1984 (which prescribes the situations in which fingerprints and samples must be destroyed) shall be amended as follows.
- (2) In subsections (1), (2) and (3), after the words “they must” there shall be inserted the words “, except as provided in subsection (3A) below,”.

[<sup>F3</sup>(3) After subsection (3), there shall be inserted the following subsections—

- “(3A) Samples which are required to be destroyed under subsection (1), (2) or (3) above need not be destroyed if they were taken for the purpose of the same investigation of an offence of which a person from whom one was taken has been convicted, but the information derived from the sample of any person entitled (apart from this subsection) to its destruction under subsection (1), (2) or (3) above shall not be used—
- (a) in evidence against the person so entitled; or
  - (b) for the purposes of any investigation of an offence.]
- (3B) Where samples are required to be destroyed under subsections (1), (2) or (3) above, and subsection (3A) above does not apply, information derived from the sample of any person entitled to its destruction under subsection (1), (2) or (3) above shall not be used—
- (a) in evidence against the person so entitled; or
  - (b) for the purposes of any investigation of an offence.”.

#### Textual Amendments

**F3** S. 57(3) repealed (1.4.2003) by 2001 c. 16, ss. 137, 138(2), Sch. 7 Pt. 2(1); S.I. 2003/708, art. 2(i)(m)

#### Marginal Citations

**M4** 1984 c. 60.

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## 58 Samples: intimate and non-intimate etc.

(1) Section 65 of the Police and Criminal Evidence Act 1984 (which contains definitions of intimate and non-intimate samples and other relevant definitions) shall be amended as follows.

(2) For the definition of “intimate sample” there shall be substituted—

““intimate sample” means—

- (a) a sample of blood, semen or any other tissue fluid, urine or pubic hair;
- (b) a dental impression;
- (c) a swab taken from a person’s body orifice other than the mouth;”.

(3) For the definition of “non-intimate sample” there shall be substituted—

““non-intimate sample” means—

- (a) a sample of hair other than pubic hair;
- (b) a sample taken from a nail or from under a nail;
- (c) a swab taken from any part of a person’s body including the mouth but not any other body orifice;
- (d) saliva;
- (e) a footprint or a similar impression of any part of a person’s body other than a part of his hand;”.

(4) After the definition of “non-intimate sample” there shall be inserted the following definitions—

““registered dentist” has the same meaning as in the <sup>M5</sup>Dentists Act 1984;

“speculative search”, in relation to a person’s fingerprints or samples, means such a check against other fingerprints or samples or against information derived from other samples as is referred to in section 63A(1) above;

“sufficient” and “insufficient”, in relation to a sample, means sufficient or insufficient (in point of quantity or quality) for the purpose of enabling information to be produced by the means of analysis used or to be used in relation to the sample.”.

### Marginal Citations

M5 1984 c. 24.

## 59 Extension of powers to search persons’ mouths.

(1) In section 65 of the <sup>M6</sup>Police and Criminal Evidence Act 1984 (definitions for purposes of Part V: treatment of persons by police), after the definition of “intimate sample” there shall be inserted the following definition—

““intimate search” means a search which consists of the physical examination of a person’s body orifices other than the mouth;”.

(2) In section 32 of that Act (powers of search upon arrest), in subsection (4), at the end, there shall be inserted “ but they do authorise a search of a person’s mouth ”.

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**Marginal Citations**

M6 1984 c. 60.

*Powers of police to stop and search*

**60 Powers to stop and search in anticipation of violence.**

- [<sup>F4</sup>(1) If a police officer of or above the rank of inspector reasonably believes—
  - (a) that incidents involving serious violence may take place in any locality in his police area, and that it is expedient to give an authorisation under this section to prevent their occurrence, or
  - (b) that persons are carrying dangerous instruments or offensive weapons in any locality in his police area without good reason,

he may give an authorisation that the powers conferred by this section are to be exercisable at any place within that locality for a specified period not exceeding 24 hours.]

(2) .....

- (3) If it appears to [<sup>F5</sup>an officer of or above the rank of]superintendent that it is expedient to do so, having regard to offences which have, or are reasonably suspected to have, been committed in connection with any [<sup>F6</sup>activity] falling within the authorisation, he may direct that the authorisation shall continue in being for a further [<sup>F7</sup>24] hours.

[<sup>F8</sup>(3A) If an inspector gives an authorisation under subsection (1) he must, as soon as it is practicable to do so, cause an officer of or above the rank of superintendent to be informed.]

- (4) This section confers on any constable in uniform power—
  - (a) to stop any pedestrian and search him or anything carried by him for offensive weapons or dangerous instruments;
  - (b) to stop any vehicle and search the vehicle, its driver and any passenger for offensive weapons or dangerous instruments.

<sup>F9</sup>(4A) .....

- (5) A constable may, in the exercise of [<sup>F10</sup>the powers conferred by subsection (4) above], stop any person or vehicle and make any search he thinks fit whether or not he has any grounds for suspecting that the person or vehicle is carrying weapons or articles of that kind.

- (6) If in the course of a search under this section a constable discovers a dangerous instrument or an article which he has reasonable grounds for suspecting to be an offensive weapon, he may seize it.

- (7) This section applies (with the necessary modifications) to ships, aircraft and hovercraft as it applies to vehicles.

- [<sup>F11</sup><sup>F12</sup>(8) A person who fails]
  - <sup>F13</sup>(a) to stop, or to stop a vehicle; <sup>F12</sup> . . .
  - <sup>F12</sup>(b) .....

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when required to do so by a constable in the exercise of his powers under this section shall be liable on summary conviction to imprisonment for a term not exceeding one month or to a fine not exceeding level 3 on the standard scale or both.

(9) Any authorisation under this section shall be in writing signed by the officer giving it and shall specify <sup>F14</sup>the grounds on which it is given and]the locality in which and the period during which the powers conferred by this section are exercisable and a direction under subsection (3) above shall also be given in writing or, where that is not practicable, recorded in writing as soon as it is practicable to do so.

<sup>F11</sup>(9A) The preceding provisions of this section, so far as they relate to an authorisation by a member of the British Transport Police Force (including one who for the time being has the same powers and privileges as a member of a police force for a police area), shall have effect as if the references to a locality in his police area were references to a place specified in section 31(1)(a) to (f) of the Railways and Transport Safety Act 2003.]

(10) Where a vehicle is stopped by a constable under this section, the driver shall be entitled to obtain a written statement that the vehicle was stopped under the powers conferred by this section if he applies for such a statement not later than the end of the period of twelve months from the day on which the vehicle was stopped <sup>F15</sup>. . . .

<sup>F16</sup>(10A) A person who is searched by a constable under this section shall be entitled to obtain a written statement that he was searched under the powers conferred by this section if he applies for such a statement not later than the end of the period of twelve months from the day on which he was searched.]

(11) In this section—

<sup>F17</sup><sup>F18</sup>“British Transport Police Force” means the constables appointed under section 53 of the British Transport Commission Act 1949;]]

“dangerous instruments” means instruments which have a blade or are sharply pointed;

“offensive weapon” has the meaning given by section 1(9) of the <sup>M7</sup>Police and Criminal Evidence Act 1984 <sup>F19</sup>or, in relation to Scotland, section 47(4) of the <sup>M8</sup>Criminal Law (Consolidation) (Scotland) Act 1995]; and

<sup>F20</sup> . . . . .

“vehicle” includes a caravan as defined in section 29(1) of the <sup>M9</sup>Caravan Sites and Control of Development Act 1960.

<sup>F21</sup>(11A) For the purposes of this section, a person carries a dangerous instrument or an offensive weapon if he has it in his possession.]

(12) The powers conferred by this section are in addition to and not in derogation of, any power otherwise conferred.

#### Textual Amendments

- F4** S. 60(1) substituted (1.3.1999) by 1997 c. 21, s. 8(2); S.I. 1999/5, art. 2
- F5** Words in s. 60(3) substituted (1.3.1999) by 1997 c. 21, s. 8(4)(a); S.I. 1999/5, art. 2
- F6** Word in s. 60(3) substituted (1.3.1999) by 1997 c. 21, s. 8(4)(b); S.I. 1999/5, art. 2
- F7** Word in s. 60(3) substituted (1.3.1999) by 1997 c. 21, s. 8(4)(c); S.I. 1999/5, art. 2
- F8** S. 60(3A) inserted (1.3.1999) by 1997 c. 21, s. 8(5); S.I. 1999/5, art. 2
- F9** S. 60(4A) repealed (14.12.2001) by 2001 c. 24, ss. 125, 127(2)(i), Sch. 8 Pt. VI

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- F10** Words in s. 60(5) substituted (1.3.1999) by 1998 c. 37, s. 25(2) (with Sch. 9); S.I. 1998/3263, art. 4
- F11** S. 60(9A) substituted (1.7.2004) by The British Transport Police (Transitional and Consequential Provisions) Order 2004 (S.I. 2004/1573), art. 12(3)(a)
- F12** S. 60(8)(b) and word “or” immediately preceding repealed (14.12.2001) by 2001 c. 24, ss. 125, 127(2)(i), Sch. 8 Pt. VI
- F13** S. 60(8)(a)(b) substituted (1.3.1999) for words in s. 60(8) by 1998 c. 37, s. 25(3); S.I. 1998/3263, art. 4
- F14** Words in s. 60(9) inserted (1.3.1999) by 1997 c. 21, s. 8(6); S.I. 1999/5, art. 2
- F15** Words in s. 60(10) repealed (1.3.1999) by 1997 c. 21, s. 8(7); S.I. 1999/5, art. 2
- F16** S. 60(10A) inserted (1.3.1999) by 1997 c. 21, s. 8(8); S.I. 1999/5, art. 2
- F17** S. 60: definition of “British Transport Police Force” ceases to have effect (1.7.2004) by virtue of Railways and Transport Safety Act 2003, (c. 20), ss. 73, 120, {Sch. 5 para. 4(1)(b)(2)(f)} (with s. 72); S.I. 2004/1572, art. 3(ddd)(jjj)
- F18** Definitions of “British Transport Police Force” and “policed premises” in s. 60(11) inserted (14.12.2001) by 2001 c. 24, ss. 101, 127(2)(f), Sch. 7 para. 16(3)
- F19** Words in s. 60(11) inserted (1.3.1999) by 1997 c. 21, s. 8(9); S.I. 1999/5, art. 2
- F20** S. 60(11): definition of “policed premises” repealed (1.7.2004) by The British Transport Police (Transitional and Consequential Provisions) Order 2004 (S.I. 2004/1573), art. 12(3)(b)
- F21** S. 60(11A) inserted (1.3.1999) by 1997 c. 21, s. 8(10); S.I. 1999/5, art. 2

#### Modifications etc. (not altering text)

- C1** S. 60 extended (S.) (1.3.1999) by 1997 c. 21, s. 8(11); S.I. 1999/5, art. 2
- C2** Ss. 60, 60AA amended (1.7.2004) by Railways and Transport Safety Act 2003, (c. 20), ss. 73, 120, {Sch. 5 para. 4(1)(a)(2)(f)} (with s. 72); S.I. 2004/1572, art. 3(ddd)(jjj)

#### Marginal Citations

- M7** 1984 c. 60.
- M8** 1995 c. 39.
- M9** 1960 c. 62.

### [<sup>F22</sup>60AA] Powers to require removal of disguises

- (1) Where—
- (a) an authorisation under section 60 is for the time being in force in relation to any locality for any period, or
  - (b) an authorisation under subsection (3) that the powers conferred by subsection (2) shall be exercisable at any place in a locality is in force for any period,
- those powers shall be exercisable at any place in that locality at any time in that period.
- (2) This subsection confers power on any constable in uniform—
- (a) to require any person to remove any item which the constable reasonably believes that person is wearing wholly or mainly for the purpose of concealing his identity;
  - (b) to seize any item which the constable reasonably believes any person intends to wear wholly or mainly for that purpose.
- (3) If a police officer of or above the rank of inspector reasonably believes—
- (a) that activities may take place in any locality in his police area that are likely (if they take place) to involve the commission of offences, and



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- (b) that it is expedient, in order to prevent or control the activities, to give an authorisation under this subsection,  
he may give an authorisation that the powers conferred by this section shall be exercisable at any place within that locality for a specified period not exceeding twenty-four hours.
- (4) If it appears to an officer of or above the rank of superintendent that it is expedient to do so, having regard to offences which—
- (a) have been committed in connection with the activities in respect of which the authorisation was given, or
  - (b) are reasonably suspected to have been so committed,
- he may direct that the authorisation shall continue in force for a further twenty-four hours.
- (5) If an inspector gives an authorisation under subsection (3) , he must, as soon as it is practicable to do so, cause an officer of or above the rank of superintendent to be informed.
- (6) Any authorisation under this section—
- (a) shall be in writing and signed by the officer giving it; and
  - (b) shall specify—
    - (i) the grounds on which it is given;
    - (ii) the locality in which the powers conferred by this section are exercisable;
    - (iii) the period during which those powers are exercisable;and a direction under subsection (4) shall also be given in writing or, where that is not practicable, recorded in writing as soon as it is practicable to do so.
- (7) A person who fails to remove an item worn by him when required to do so by a constable in the exercise of his power under this section shall be liable, on summary conviction, to imprisonment for a term not exceeding one month or to a fine not exceeding level 3 on the standard scale or both.
- (8) The preceding provisions of this section, so far as they relate to an authorisation by a member of the British Transport Police Force (including one who for the time being has the same powers and privileges as a member of a police force for a police area), shall have effect as if references to a locality or to a locality in his police area were references to any locality in or in the vicinity of any policed premises, or to the whole or any part of any such premises.
- (9) In this section [<sup>F23</sup>“British Transport Police Force”] and “policed premises” each has the same meaning as in section 60.
- (10) The powers conferred by this section are in addition to, and not in derogation of, any power otherwise conferred.
- (11) This section does not extend to Scotland.]

#### Textual Amendments

**F22** S. 60AA inserted (14.12.2001) by 2001 c. 24, ss. 94(1), 127(2)(d)

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**F23** S. 60AA: definition of "British Transport Police Force" ceases to have effect (1.7.2004) by virtue of Railways and Transport Safety Act 2003, (c. 20), ss. 73, 120, {Sch. 5 para. 4(1)(b)(2)(f)} (with s. 72); S.I. 2004/1572, **art. 3(ddd)(jjj)**

**Modifications etc. (not altering text)**

**C3** Ss. 60, 60AA amended (1.7.2004) by Railways and Transport Safety Act 2003, (c. 20), ss. 73, 120, {Sch. 5 para. 4(1)(a)(2)(f)} (with s. 72); S.I. 2004/1572, **art. 3(ddd)(jjj)**

[<sup>F24</sup>**60A Retention and disposal of things seized under section 60.**

- (1) Any things seized by a constable under section 60 [<sup>F25</sup>or 60AA] may be retained in accordance with regulations made by the Secretary of State under this section.
- (2) The Secretary of State may make regulations regulating the retention and safe keeping, and the disposal and destruction in prescribed circumstances, of such things.
- (3) Regulations under this section may make different provisions for different classes of things or for different circumstances.
- (4) The power to make regulations under this section shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

**Textual Amendments**

**F24** S. 60A inserted (1.3.1999) by 1998 c. 37, s. 26 (with Sch. 9); S.I. 1998/3263, **art. 4**

**F25** Words in s. 60A(1) inserted (14.12.2001) by 2001 c. 24, **ss. 94(2), 127(2)(d)**

[<sup>F26</sup>**60B Arrest without warrant for offences under section 60: Scotland.**

In Scotland, where a constable reasonably believes that a person has committed or is committing an offence under section 60(8) he may arrest that person without warrant.]

**Textual Amendments**

**F26** S. 60B inserted (1.3.1999) by 1998 c. 37, s. 27(2) (with Sch. 9); S.I. 1998/3263, **art. 4**

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**Changes to legislation:**

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