



# Criminal Procedure (Scotland) Act 1995

## 1995 CHAPTER 46

### PART II **S**

#### POLICE FUNCTIONS

##### *Prints and samples*

### 18 **Prints, samples etc. in criminal investigations. **S****

- (1) This section applies where a person has been arrested and is in custody or is detained under section 14(1) of this Act.
- (2) A constable may take from the person [<sup>F1</sup>, or require the person to provide him with, such relevant physical data] as the constable may, having regard to the circumstances of the suspected offence in respect of which the person has been arrested or detained, reasonably consider it appropriate to take [<sup>F2</sup>from him or require him to provide, and the person so required shall comply with that requirement].
- [<sup>F3</sup>(3) Subject to subsection (4) below, all record of any relevant physical data taken from or provided by a person under subsection (2) above, all samples taken under subsection (6) below and all information derived from such samples shall be destroyed as soon as possible following a decision not to institute criminal proceedings against the person or on the conclusion of such proceedings otherwise than with a conviction or an order under section 246(3) of this Act.]
- (4) The duty under subsection (3) above to destroy samples taken under subsection (6) below and information derived from such samples shall not apply—
  - (a) where the destruction of the sample or the information could have the effect of destroying any sample, or any information derived therefrom, lawfully held in relation to a person other than the person from whom the sample was taken; or
  - (b) where the record, sample or information in question is of the same kind as a record, a sample or, as the case may be, information lawfully held by or on behalf of any police force in relation to the person.

*Status: Point in time view as at 17/11/1997. This version of this provision has been superseded.*

**Changes to legislation:** Criminal Procedure (Scotland) Act 1995, Section 18 is up to date with all changes known to be in force on or before 01 June 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)

- (5) No sample, or information derived from a sample, retained by virtue of subsection (4) above shall be used—
- (a) in evidence against the person from whom the sample was taken; or
  - (b) for the purposes of the investigation of any offence.
- (6) A constable may, with the authority of an officer of a rank no lower than inspector, take from the person—
- (a) from the hair of an external part of the body other than pubic hair, by means of cutting, combing or plucking, a sample of hair or other material;
  - (b) from a fingernail or toenail or from under any such nail, a sample of nail or other material;
  - (c) from an external part of the body, by means of swabbing or rubbing, a sample of blood or other body fluid, of body tissue or of other material;
  - (d) from the inside of the mouth, by means of swabbing, a sample of saliva or other material.

<sup>F4</sup>(7) .....

[<sup>F5</sup>(7A) For the purposes of this section and sections 19 to 20 of this Act “relevant physical data” means any—

- (a) fingerprint;
- (b) palm print;
- (c) print or impression other than those mentioned in paragraph (a) and (b) above, of an external part of the body;
- (d) record of a person’s skin on an external part of the body created by a device approved by the Secretary of State.

(7B) The Secretary of State by order made by statutory instrument may approve a device for the purpose of creating such records as are mentioned in paragraph (d) of subsection (7A) above.]

(8) Nothing in this section shall prejudice—

- (a) any power of search;
- (b) any power to take possession of evidence where there is imminent danger of its being lost or destroyed; or
- (c) any power to take prints, impressions or samples under the authority of a warrant.

#### Textual Amendments

- F1** Words in s. 18(2) substituted (1.8.1997) by 1997 c. 48, s. 47(1)(a)(i); S.I. 1997/1712, art. 3, Sch. (subject to arts. 4, 5)
- F2** Words in s. 18(2) inserted (1.8.1997) by 1997 c. 48, s. 47(1)(a)(ii); S.I. 1997/1712, art. 3, Sch. (subject to arts. 4, 5)
- F3** S. 18(3) substituted (*retrospective* to 1.8.1997) by 1998 c. 37, ss. 119, 121(2), Sch. 8 para. 117(2)
- F4** S. 18(7) repealed (17.11.1997) by 1997 c. 48, ss. 47(1)(c), 62(2), Sch. 3; S.I. 1997/2694, art. 2(2)(a)(d)
- F5** S. 18(7A)(7B) inserted (1.8.1997) by 1997 c. 48, s. 47(1)(d); S.I. 1997/1712, art. 3, Sch. (subject to arts. 4, 5)

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

- C1** S. 18 applied (with modifications) (19.2.2001) by 2000 c. 11, ss. 41, 53, Sch. 7 para. 6, **Sch. 8 para. 20(1)**; S.I. 2001/421, **art. 2**
- C2** S. 18(3)-(5) applied (17.12.2001) by 2001 asp 13, s. 17, **Sch. 4 para. 7** (with s. 29); S.S.I. 2001/456, **art. 2**

**Status:**

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