

POLICE AND CRIMINAL EVIDENCE ACT 1984
PART V
QUESTIONING AND TREATMENT OF PERSONS
BY POLICE

54. Search of detained persons

- (1) The custody officer at a police station shall ascertain and record or cause to be recorded everything which a person has with him when he is-
- (a) brought to the station after being arrested elsewhere or after being committed to custody by an order or sentence of a court; or
 - (b) arrested at the station or detained there, as a person falling within section 34(7), under section 37 above.
- (2) In the case of an arrested person the record shall be made as part of his custody record.
- (3) Subject to subsection (4) below, a custody officer may seize and retain any such thing or cause any such thing to be seized and retained.
- (4) Clothes and personal effects may only be seized if the custody officer-
- (a) believes that the person from whom they are seized may use them-
 - (i) to cause physical injury to himself or any other person;
 - (ii) to damage property;
 - (iii) to interfere with evidence; or
 - (iv) to assist him to escape; or
 - (b) has reasonable grounds for believing that they may be evidence relating to an offence.

55. Intimate searches

- (1) Subject to the following provisions of this section, if an officer of at least the rank of superintendent has reasonable grounds for believing-
- (a) that a person who has been arrested and is in police detention may have concealed on him anything which-
 - (i) he could use to cause physical injury to himself or others; and
 - (ii) he might so use while he is in police detention or in the custody of a court; or
 - (b) that such a person-
 - (i) may have a Class A drug concealed on him; and
 - (ii) was in possession of it with the appropriate criminal intention before his arrest,
- he may authorise an intimate search of that person.

56. Right to have someone informed when arrested

- (1) Where a person has been arrested and is being held in custody in a police station or other premises, he shall be entitled, if he so requests, to have one friend or relative or other person who is known to him or who is likely to take an interest in his welfare told, as soon as is practicable except to the extent that delay is permitted by this section, that he has been arrested and is being detained there.
- (2) Delay is only permitted-
- (a) in the case of a person who is in police detention for a serious arrestable offence; and

- (b) if an officer of at least the rank of superintendent authorises it.
- (3) In any case the person in custody must be permitted to exercise the right conferred by subsection (1) above within 36 hours from the relevant time as defined in section 41(2) above.
- (5) Subject to subsection (5A) below an officer may only authorise delay where he has reasonable grounds for believing that telling the named person of the arrest-
- (a) will lead to interference with or harm to evidence connected with a serious arrestable offence or interference with or physical injury to other persons; or
 - (b) will lead to the alerting of other persons suspected of having committed such an offence but not yet arrested for it; or
 - (c) will hinder the recovery of any property obtained as a result of such an offence.
- (5A) An officer may also authorise delay where the serious arrestable offence is a drug trafficking offence and the officer has reasonable grounds for believing-
- (a) that the detained person has benefited from drug trafficking, and
 - (b) that the recovery of the value of that person's proceeds of drug trafficking will be hindered by telling the named person of the arrest.
- (6) If a delay is authorised-
- (a) the detained person shall be told the reason for it; and
 - (b) the reason shall be noted on his custody record.
- (7) The duties imposed by subsection (6) above shall be performed as soon as is practicable.
- (8) The rights conferred by this section on a person detained at a police station or other premises are exercisable whenever he is transferred from one place to another; and this section applies to each subsequent occasion on which they are exercisable as it applies to the first such occasion.
- (9) There may be no further delay in permitting the exercise of the right conferred by subsection (1) above once the reason for authorising delay ceases to subsist.
- (10) In the foregoing provisions of this section references to a person who has been arrested include references to a person who has been detained under the terrorism provisions and 'arrest' includes detention under those provisions.
- (11) In its application to a person who has been arrested or detained under the terrorism provisions-
- (a) subsection (2)(a) above shall have effect as if for the words 'for a serious arrestable offence' there were substituted the words 'under the terrorism provisions';
 - (b) subsection (3) above shall have effect as if for the words from 'within' onwards there were substituted the words 'before the end of the period beyond which he may no longer be detained without the authority of the Secretary of State'; and
 - (c) subsection (5) above shall have effect as if at the end there were added 'or'
 - (d) will lead to interference with the gathering of information about the commission, preparation or instigation of an act of terrorism; or
 - (e) by alerting any person, will make it more difficult-
 - (i) to prevent an act of terrorism; or
 - (ii) to secure the apprehension, prosecution or conviction of any person in connection with the commission, preparation or investigation of an act of terrorism.

57. Additional rights of children and young persons

The following subsections shall be substituted for section 34(2) of the Children and Young Persons Act 1933 –

“(2) Where a child or young person is in police detention, such steps as are practicable shall be taken to ascertain the identity of a person responsible for his welfare.

(3) If it is practicable to ascertain the identity of a person responsible for the welfare of the child or young person, that person shall be informed, unless it is not practicable to do so –

- (a) that the child or young person has been arrested;
- (b) why he has been arrested; and
- (c) where he is being detained.

(4) Where information falls to be given under subsection (3) above, it shall be given as soon as it is practicable to do so.

(5) For the purposes of this section the persons who may be responsible for the welfare of a child or young person are –

- (a) his parent or guardian; or
- (b) any other person who has for the time being assumed responsibility for his welfare.

(6) If it is practicable to give a person responsible for the welfare of the child or young person the information required by subsection (3) above, that person shall be given it as soon as it is practicable to do so.

...”

58. Access to legal advice

(1) A person arrested and held in custody in a police station or other premises shall be entitled, if he so requests, to consult a solicitor privately at any time.

(2) Subject to subsection (3) below, a request under subsection (1) above and the time at which it was made shall be recorded in the custody record.

(3) Such a request need not be recorded in the custody record of a person who makes it at a time while he is at a court after being charged with an offence.

(4) If a person makes such a request, he must be permitted to consult a solicitor as soon as is practicable except to the extent that delay is permitted by this section.

(5) In any case he must be permitted to consult a solicitor within 36 hours from the relevant time, as defined in section 41(2) above.

(6) Delay in compliance with a request is only permitted–

- (a) in the case of a person who is in police detention for a serious arrestable offence; and
- (b) if an officer of at least the rank of superintendent authorises it.

(7) An officer may give an authorisation under subsection (6) above orally or in writing but, if he gives it orally, he shall confirm it in writing as soon as is practicable.

(8) Subject to subsection (8A) below an officer may only authorise delay where he has reasonable grounds for believing that the exercise of the right conferred by subsection (1) above at the time when the person detained desires to exercise it–

- (a) will lead to interference with or harm to evidence connected with a serious arrestable offence or interference with or physical injury to other persons; or
- (b) will lead to the alerting of other persons suspected of having committed such an offence but not yet arrested for it; or
- (c) will hinder the recovery of any property obtained as a result of such an offence.

(8A) An officer may also authorise delay where the serious arrestable offence is a drug trafficking offence and the officer has reasonable grounds for believing-

- (a) where the offence is a drug trafficking offence, that the detained person has benefited from drug trafficking and that the recovery of the value of that person's proceeds of drug trafficking will be hindered by the exercise of the right conferred by subsection (1) above; and
- (b) where the offence is one to which Part VI of the Criminal Justice Act 1988 applies, that the detained person has benefited from the offence and that the recovery of the value of the property obtained by that person from or in connection with the offence or of the pecuniary advantage derived by him from or in connection with it will be hindered by the exercise of the right conferred by subsection (1) above.

(9) If delay is authorised-

- (a) the detained person shall be told the reason for it; and
- (b) the reason shall be noted on his custody record.

(10) The duties imposed by subsection (9) above shall be performed as soon as is practicable.

(11) There may be no further delay in permitting the exercise of the right conferred by subsection (1) above once the reason for authorising delay ceases to subsist.

(12) The reference in subsection (1) above to a person arrested includes a reference to a person who has been detained under the terrorism provisions.

(13) In the application of this section to a person who has been arrested or detained under the terrorism provisions-

- (a) subsection (5) above shall have effect as if for the words from 'within' onwards there were substituted the words 'before the end of the period beyond which he may no longer be detained without the authority of the Secretary of State';
- (b) subsection (6)(a) above shall have effect as if for the words 'for a serious arrestable offence' there were substituted the words 'under the terrorism provisions'; and
- (c) subsection (8) above shall have effect as if at the end there were added 'or'
- (d) will lead to interference with the gathering of information about the commission, preparation or instigation of acts of terrorism; or
- (e) by alerting any person, will make it more difficult-
 - (i) to prevent an act of terrorism; or
 - (ii) to secure the apprehension, prosecution or conviction of any person in connection with the commission, preparation or instigation of an act of terrorism.

(14) If an officer of appropriate rank has reasonable grounds for believing that, unless he gives a direction under subsection (15) below, the exercise by a person arrested or detained under the terrorism provisions of the right conferred by subsection (1) above will have any of the consequences specified in subsection (8) above (as it has effect by virtue of subsection (13) above), he may give a direction under that subsection.

(15) A direction under this subsection is a direction that a person desiring to exercise the right conferred by subsection (1) above may only consult a solicitor in the sight and hearing of a qualified officer of the uniformed branch of the force of which the officer giving the direction is a member.

- (16) An officer is qualified for the purpose of subsection (15) above if-
 - (a) he is of at least the rank of inspector; and

(b) in the opinion of the officer giving the direction he has no connection with the case.

(17) An officer is of appropriate rank to give a direction under subsection (15) above if he is of at least the rank of Commander or Assistant Chief Constable.

(18) A direction under subsection (15) above shall cease to have effect once the reason for giving it ceases to subsist.

60. Tape-recording of interviews

(1) It shall be the duty of the Secretary of State –

(a) to issue a code of practice in connection with the tape-recording of interviews of persons suspected of the commission of criminal offences which are held by police officers at police stations; and

(b) to make an order requiring the tape-recording of interviews or persons suspected of the commission of criminal offences, or of such descriptions of criminal offences as may be specified in the order, which are so held, in accordance with the code as it has effect for the time being.

61. Fingerprinting

(1) Except as provided by this section no person's fingerprints may be taken without the appropriate consent.

(2) Consent to the taking of a person's fingerprints must be in writing if it is given at a time when he is at a police station.

(3) The fingerprints of a person detained at a police station may be taken without the appropriate consent-

(a) if an officer of at least the rank of superintendent authorises them to be taken ; or

(b) if –

(i) he has been charged with a recordable offence or informed that he will be reported for such an offence; and

(ii) he has not had his fingerprints taken in the course of the investigation of the offence by the police.

(4) An officer may only give an authorisation under subsection (3)(a) above if he has reasonable grounds-

(a) for suspecting the involvement of the person whose fingerprints are to be taken in a criminal offence; and

(b) for believing that his fingerprints will tend to confirm or disprove his involvement.

(5) An officer may give an authorisation under subsection (3)(a) above orally or in writing but, if he gives it orally, he shall confirm it in writing as soon as is practicable.

(6) Any person's fingerprints may be taken without the appropriate consent if he has been convicted of a recordable offence.

(7) In a case where by virtue of subsection (3) or (6) above a person's fingerprints are taken without the appropriate consent-

(a) he shall be told the reason before his fingerprints are taken; and

(b) the reason shall be recorded as soon as is practicable after the fingerprints are taken.

(8) If he is detained at a police station when the fingerprints are taken, the reason for taking them shall be recorded on his custody record.

62. Intimate samples

- (1) An intimate sample may be taken from a person in police detention only -
 - (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.
- (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.
- (2) An officer may only give an authorisation under subsection (1) or (1A) above if he has reasonable grounds -
 - (a) for suspecting the involvement of the person from whom the sample is to be taken in a recordable offence; and
 - (b) for believing that the sample will tend to confirm or disprove his involvement.
- (3) An officer may give an authorisation under subsection (1) or (1A) above orally or in writing but, if he gives it orally, he shall confirm it in writing as soon as is practicable.
- (4) The appropriate consent must be given in writing.
- (5) Where -
 - (a) an authorisation has been given; and
 - (b) it is proposed that an intimate sample shall be taken in pursuance of the authorisation,an officer shall inform the person from whom the sample is to be taken -
 - (i) of the giving of the authorisation; and
 - (ii) of the grounds for giving it.
- (6) The duty imposed by subsection (5)(ii) above includes a duty to state the nature of the offence in which it is suspected that the person from whom the sample is to be taken has been involved.
- (7) If an intimate sample is taken from a person -
 - (a) the authorisation by virtue of which it was taken;
 - (b) the grounds for giving the authorisation; and
 - (c) the fact that the appropriate consent was given,
- (7A) If an intimate sample is taken from a person at a police station -
 - (a) before the sample is taken, an officer shall inform him that it may be the subject of a speculative search; and
 - (b) the fact that the person has been informed of this possibility shall be recorded as soon as practicable after the sample has been taken.
- (8) If an intimate sample is taken from a person detained at a police station, the matters required to be recorded by subsection (7) of (7A) above shall be recorded in his custody record.
- (9) An intimate sample, other than a sample of urine or a dental impression, may only be taken from a person by a registered medical practitioner and a dental impression may only be taken by a registered dentist.
- (10) Where the appropriate consent to the taking of an intimate sample from a person was refused without good cause, in any proceedings against that person for an offence -
 - (a) the court, in determining –

- (i) whether to commit that person for trial; or
 - (ii) whether there is a case to answer; and
- (aa) a judge, in deciding whether to grant an application made by the accused under –
 - (i) section 6 of the Criminal Justice Act 1987 (application for dismissal of charges of serious fraud in respect of which notice of transfer has been given under section 4 of that Act); or
 - (ii) paragraph 5 of Schedule 6 to the Criminal Justice Act 1991 (application for dismissal of charge of violent or sexual offence involving child in respect of which notice of transfer has been given under section 53 of that Act); and
- (b) the court or jury, in determining whether that person is guilty of the offence charged,
may draw such inferences from the refusal as appear proper... .

(11) Nothing in this section affects sections 4 to 11 of the Road Traffic Act 1988.

(12) Nothing in this section, except as provided in section 15(11) and (12) of, and paragraph 7(6A) and (6B) of Schedule 5 to, the Prevention of Terrorism (Temporary Provisions) Act 1989, applies to a person arrested or detained under the terrorism procedures.

63. Regulation of taking non-intimate samples

(1) Except as provided by this section, a non-intimate sample may not be taken from a person without the appropriate consent.

(2) Consent to the taking of a non-intimate sample must be given in writing.

(3) A non-intimate sample may be taken from a person without the appropriate consent if—

- (a) he is in police detention or is being held in custody by the police on the authority of a court; and
- (b) an officer of at least the rank of superintendent authorizes it to be taken without the appropriate consent.

(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.

(4) An officer may only give an authorization under subsection (3) above if he has reasonable grounds—

- (a) for suspecting the involvement of the person from whom the sample is to be taken in a serious arrestable offence; and
- (b) for believing that the sample will tend to confirm or disprove his involvement.

(5) An officer may give an authorization under subsection (3) above orally or in writing but, if he gives it orally, he shall confirm it in writing as soon as is practicable.

(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.

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 [1952 c. 52.] 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.

(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.

64. Destruction of fingerprints and samples

(1) If –
(a) fingerprints or samples are taken from a person in connection with the investigation of an offence; and
(b) he is cleared of that offence,
they must, except as provided in subsection (3A) below, be destroyed as soon as is practicable after the conclusion of the proceedings.

(2) If –
(a) fingerprints or samples are taken from a person in connection with such an investigation; and
(b) it is decided that he shall not be prosecuted for the offence and he has not admitted it and been dealt with by way of being cautioned by a constable, they must, except as provided in subsection (3A) below, be destroyed as soon as is practicable after that decision is taken.

(3) If –
(a) fingerprints or samples are taken from a person in connection with the investigation of an offence; and
(b) that person is not suspected of having committed the offence,
they must, except as provided in subsection (3A) below, be destroyed as soon as they have fulfilled the purpose for which they were taken.

(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.

(4) Proceedings which are discontinued are to be treated as concluded for the purposes of this section.

65. Definitions for purposes of Part V: treatment of persons by police

In this Part of this Act –

“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;

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

“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.