

# Criminal Justice Act 2003

## 2003 Chapter 44 - continued

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### PART 1

#### AMENDMENTS OF POLICE AND CRIMINAL EVIDENCE ACT 1984

#### **1 Extension of powers to stop and search**

(1) In this Part, "the 1984 Act" means the Police and Criminal Evidence Act 1984 (c. 60).

(2) In section 1(8) of the 1984 Act (offences for purpose of definition of prohibited article), at the end of paragraph (d) there is inserted "; and

(e) offences under section 1 of the Criminal Damage Act 1971 (destroying or damaging property)."

#### **2 Warrants to enter and search**

In section 16 of the 1984 Act (execution of warrants), after subsection (2) there is inserted-

"(2A) A person so authorised has the same powers as the constable whom he accompanies in respect of-

- (a) the execution of the warrant, and
- (b) the seizure of anything to which the warrant relates.

(2B) But he may exercise those powers only in the company, and under the supervision, of a constable."

#### **3 Arrestable offences**

(1) Schedule 1A to the 1984 Act (specific offences which are arrestable offences) is amended as follows.

(2) After paragraph 2 there is inserted-

"2ZA *Criminal Justice Act 1925*

An offence under section 36 of the Criminal Justice Act 1925 (untrue statement for procuring a passport)."

(3) After paragraph 6 there is inserted-

"6A *Misuse of Drugs Act 1971*

An offence under section 5(2) of the Misuse of Drugs Act 1971 (having possession of a controlled drug) in respect of cannabis or cannabis resin (within the meaning of that Act)."

(4) After paragraph 17 there is inserted-

"17A An offence under section 174 of the Road Traffic Act 1988 (false statements and withholding material information)."

#### **4 Bail elsewhere than at police station**

(1) Section 30 of the 1984 Act (arrest elsewhere than at police station) is amended as follows.

(2) For subsection (1) there is substituted-

"(1) Subsection (1A) applies where a person is, at any place other than a police station-

- (a) arrested by a constable for an offence, or
- (b) taken into custody by a constable after being arrested for an offence by a person other than a constable.

(1A) The person must be taken by a constable to a police station as soon as practicable after the arrest.

(1B) Subsection (1A) has effect subject to section 30A (release on bail) and subsection (7) (release without bail)."

(3) In subsection (2) for "subsection (1)" there is substituted "subsection (1A)".

(4) For subsection (7) there is substituted-

"(7) A person arrested by a constable at any place other than a police station must be released without bail if the condition in subsection (7A) is satisfied.

(7A) The condition is that, at any time before the person arrested reaches a police station, a constable is satisfied that there are no grounds for keeping him under arrest or releasing him on bail under section 30A."

(5) For subsections (10) and (11) there is substituted-

"(10) Nothing in subsection (1A) or in section 30A prevents a constable delaying taking a person to a police station or releasing him on bail if the condition in subsection (10A) is satisfied.

(10A) The condition is that the presence of the person at a place (other than a police station) is necessary in order to carry out such investigations as it is reasonable to carry out immediately.

(11) Where there is any such delay the reasons for the delay must be recorded when the person first arrives at the police station or (as the case may be) is released on bail."

(6) In subsection (12) for "subsection (1)" there is substituted "subsection (1A) or section 30A".

(7) After section 30 there is inserted-

### **"30A Bail elsewhere than at police station**

(1) A constable may release on bail a person who is arrested or taken into custody in the circumstances mentioned in section 30(1).

(2) A person may be released on bail under subsection (1) at any time before he arrives at a police station.

(3) A person released on bail under subsection (1) must be required to attend a police station.

(4) No other requirement may be imposed on the person as a condition of bail.

(5) The police station which the person is required to attend may be any police station.

### **30B Bail under section 30A: notices**

(1) Where a constable grants bail to a person under section 30A, he must give that person a notice in writing before he is released.

(2) The notice must state-

- (a) the offence for which he was arrested, and
- (b) the ground on which he was arrested.

(3) The notice must inform him that he is required to

attend a police station.

(4) It may also specify the police station which he is required to attend and the time when he is required to attend.

(5) If the notice does not include the information mentioned in subsection (4), the person must subsequently be given a further notice in writing which contains that information.

(6) The person may be required to attend a different police station from that specified in the notice under subsection (1) or (5) or to attend at a different time.

(7) He must be given notice in writing of any such change as is mentioned in subsection (6) but more than one such notice may be given to him.

### **30C Bail under section 30A: supplemental**

(1) A person who has been required to attend a police station is not required to do so if he is given notice in writing that his attendance is no longer required.

(2) If a person is required to attend a police station which is not a designated police station he must be-

(a) released, or

(b) taken to a designated police station,

not more than six hours after his arrival.

(3) Nothing in the Bail Act 1976 applies in relation to bail under section 30A.

(4) Nothing in section 30A or 30B or in this section prevents the re-arrest without a warrant of a person released on bail under section 30A if new evidence justifying a further arrest has come to light since his release.

### **30D Failure to answer to bail under section 30A**

(1) A constable may arrest without a warrant a person who-

(a) has been released on bail under section 30A subject to a requirement to attend a specified police station, but

(b) fails to attend the police station at the specified time.

(2) A person arrested under subsection (1) must be taken to a police station (which may be the specified police station or any other police station) as soon as practicable after the arrest.

(3) In subsection (1), "specified" means specified in a notice under subsection (1) or (5) of section 30B or, if notice of change has been given under subsection (7) of that section, in that notice.

(4) For the purposes of-

(a) section 30 (subject to the obligation in subsection (2)), and

(b) section 31,

an arrest under this section is to be treated as an arrest for an offence."

## **5 Drug testing for under-eighteens**

(1) The 1984 Act is amended as follows.

(2) In section 38 (duties of custody officer after charge)-

(a) in subsection (1)-

(i) for sub-paragraph (iiia) of paragraph (a) there is substituted-

"(iiia) except in a case where (by virtue of subsection (9) of section 63B below) that section does not apply, the custody officer has reasonable grounds for believing that the detention of the person is necessary to enable a sample to be taken from him under that section;"

(ii) in sub-paragraph (i) of paragraph (b), after "satisfied" there is inserted "(but, in the case of paragraph (a)(iiia) above, only if the arrested juvenile has attained the minimum age)",

(b) in subsection (6A), after the definition of "local authority accommodation" there is inserted-

""minimum age" means the age specified in section 63B(3) below;"

(3) In section 63B (testing for presence of Class A drugs)-

(a) in subsection (3), for "18" there is substituted "14",

(b) after subsection (5) there is inserted-

"(5A) In the case of a person who has not attained the age

of 17-

- (a) the making of the request under subsection (4) above;
- (b) the giving of the warning and (where applicable) the information under subsection (5) above; and
- (c) the taking of the sample,

may not take place except in the presence of an appropriate adult.",

(c) after subsection (6) there is inserted-

"(6A) The Secretary of State may by order made by statutory instrument amend subsection (3) above by substituting for the age for the time being specified a different age specified in the order.

(6B) A statutory instrument containing an order under subsection (6A) above shall not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.",

(d) after subsection (8) there is inserted-

"(9) In relation to a person who has not attained the age of 18, this section applies only where-

- (a) the relevant chief officer has been notified by the Secretary of State that arrangements for the taking of samples under this section from persons who have not attained the age of 18 have been made for the police area as a whole, or for the particular police station, in which the person is in police detention; and
- (b) the notice has not been withdrawn.

(10) In this section-

"appropriate adult", in relation to a person who has not attained the age of 17, means-

- (a) his parent or guardian or, if he is in the care of a local authority or voluntary organisation, a person representing that authority or organisation; or
- (b) a social worker of a local authority social services department; or
- (c) if no person falling within paragraph (a) or (b) is available, any responsible person aged 18 or over who is not a police officer or a person employed by the police;

"relevant chief officer" means-

- (a) in relation to a police area, the chief officer of police of the police force for that police area;

or

(b) in relation to a police station, the chief officer of police of the police force for the police area in which the police station is situated."

## **6 Use of telephones for review of police detention**

For section 40A(1) and (2) of the 1984 Act (use of telephone for review under s.40) there is substituted-

"(1) A review under section 40(1)(b) may be carried out by means of a discussion, conducted by telephone, with one or more persons at the police station where the arrested person is held.

(2) But subsection (1) does not apply if-

(a) the review is of a kind authorised by regulations under section 45A to be carried out using video-conferencing facilities; and

(b) it is reasonably practicable to carry it out in accordance with those regulations."

## **7 Limits on period of detention without charge**

In section 42(1) of the 1984 Act (conditions to be satisfied before detention without charge may be extended from 24 to 36 hours), for paragraph (b) there is substituted-

"(b) an offence for which he is under arrest is an arrestable offence; and"

## **8 Property of detained persons**

(1) In subsection (1) of section 54 of the 1984 Act (which requires the custody officer at a police station to ascertain and record everything which a detained person has with him), there is omitted "and record or cause to be recorded".

(2) For subsection (2) of that section (record of arrested person to be made as part of custody record) there is substituted-

"(2) The custody officer may record or cause to be recorded all or any of the things which he ascertains under subsection (1).

(2A) In the case of an arrested person, any such record may be made as part of his custody record."

## **9 Taking fingerprints without consent**

(1) Section 61 of the 1984 Act (fingerprinting) is amended as follows.

(2) For subsections (3) and (4) (taking of fingerprints without appropriate consent) there is substituted-

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

(a) he is detained in consequence of his arrest for a recordable offence; and

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

(4) The fingerprints of a person detained at a police station may be taken 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) he has not had his fingerprints taken in the course of the investigation of the offence by the police."

(3) In subsection (3A) (disregard of incomplete or unsatisfactory fingerprints) for the words from the beginning to "subsection (3) above" there is substituted "Where a person mentioned in paragraph (a) of subsection (3) or (4) has already had his fingerprints taken in the course of the investigation of the offence by the police".

(4) In subsection (5) (authorisation to be given or confirmed in writing) for "subsection (3)(a) or (4A)" there is substituted "subsection (4A)".

(5) In subsection (7) (reasons for taking of fingerprints without consent) for "subsection (3) or (6)" there is substituted "subsection (3), (4) or (6)".

## **10 Taking non-intimate samples without consent**

(1) Section 63 of the 1984 Act (other samples) is amended as follows.

(2) After subsection (2) (consent to be given in writing) there is inserted-

"(2A) A non-intimate sample may be taken from a person without the appropriate consent if two conditions are satisfied.

(2B) The first is that the person is in police detention in

consequence of his arrest for a recordable offence.

(2C) The second is that-

(a) he has not had a non-intimate sample of the same type and from the same part of the body taken in the course of the investigation of the offence by the police, or

(b) he has had such a sample taken but it proved insufficient."

(3) In subsection (3)(a) (taking of samples without appropriate consent) the words "is in police detention or" are omitted.

(4) In subsection (3A) (taking of samples without appropriate consent after charge) for "(whether or not he falls within subsection (3)(a) above)" there is substituted "(whether or not he is in police detention or held in custody by the police on the authority of a court)".

(5) In subsection (8A) (reasons for taking of samples without consent) for "subsection (3A)" there is substituted "subsection (2A), (3A)".

## **11 Codes of practice**

(1) In section 67 of the 1984 Act (supplementary provisions about codes), for subsections (1) to (7C) there is substituted-

"(1) In this section, "code" means a code of practice under section 60, 60A or 66.

(2) The Secretary of State may at any time revise the whole or any part of a code.

(3) A code may be made, or revised, so as to-

(a) apply only in relation to one or more specified areas,

(b) have effect only for a specified period,

(c) apply only in relation to specified offences or descriptions of offender.

(4) Before issuing a code, or any revision of a code, the Secretary of State must consult-

(a) persons whom he considers to represent the interests of police authorities,

(b) persons whom he considers to represent the interests of chief officers of police,

(c) the General Council of the Bar,

- (d) the Law Society of England and Wales,
- (e) the Institute of Legal Executives, and
- (f) such other persons as he thinks fit.

(5) A code, or a revision of a code, does not come into operation until the Secretary of State by order so provides.

(6) The power conferred by subsection (5) is exercisable by statutory instrument.

(7) An order bringing a code into operation may not be made unless a draft of the order has been laid before Parliament and approved by a resolution of each House.

(7A) An order bringing a revision of a code into operation must be laid before Parliament if the order has been made without a draft having been so laid and approved by a resolution of each House.

(7B) When an order or draft of an order is laid, the code or revision of a code to which it relates must also be laid.

(7C) No order or draft of an order may be laid until the consultation required by subsection (4) has taken place.

(7D) An order bringing a code, or a revision of a code, into operation may include transitional or saving provisions."

(2) Section 113 of the 1984 Act (application of Act to armed forces) is amended as follows.

(3) After subsection (3) there is inserted-

"(3A) In subsections (4) to (10), "code" means a code of practice under subsection (3)."

(4) For subsections (5) to (7) there is substituted-

"(5) The Secretary of State may at any time revise the whole or any part of a code.

(6) A code may be made, or revised, so as to-

- (a) apply only in relation to one or more specified areas,
- (b) have effect only for a specified period,
- (c) apply only in relation to specified offences or descriptions of offender.

(7) The Secretary of State must lay a code, or any revision

of a code, before Parliament."

## 12 Amendments related to Part 1

Schedule 1 (which makes amendments related to the provisions of this Part) has effect.

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