

ภาคผนวก จ

ROAD TRAFFIC ACT 1974

65 . Terms used in section 59B(5) and sections 63 to 73

For the purposes of section 59B(5) and sections 63 to 73, inclusive —

analyst means a person certified by the chief executive officer of the Chemistry Centre (WA) as being competent to determine the concentration of alcohol in bodily substances;

approved device means a device of a type approved by the Minister under section 72(2)(c) for the purpose of ascertaining the presence of prescribed illicit drugs in a person's oral fluid;

authorised drug tester means a person authorised by the Commissioner of Police to collect, and conduct drug testing of, samples of oral fluid for the purposes of section 66D;

authorised person means a person certified by the chief executive officer of the Chemistry Centre (WA) as being competent to operate all types of breath analysing equipment;

blood alcohol content means the concentration of alcohol in a person's blood, expressed in grams of alcohol per 100ml of blood;

breath analysing equipment means apparatus of a type approved by the Minister for the purpose of ascertaining a person's blood alcohol content by analysis of a sample of his breath;

conduct includes behaviour and demeanour;

driver assessment means an assessment of drug impairment required by a member of the Police Force under section 66A(1) or (2);

drug means —

- (a) a drug to which the [Misuse of Drugs Act 1981](#) applies; or
- (b) a substance that is included in the [Poisons Act 1964](#) Schedule 4;

or

(c) a substance (other than alcohol) that, when consumed or used by a person, deprives the person (temporarily or permanently) of any of the person's normal mental or physical faculties;

drug testing , in relation to oral fluid, means testing for the presence of prescribed illicit drugs;

drugs analyst means a person certified by the chief executive officer of the Chemistry Centre (WA) as being competent to ascertain whether and to what extent drugs are present in bodily substances;

medical practitioner has the meaning given to that term in the *Medical Practitioners Act 2008* section 4;

preliminary oral fluid test means a test of a sample of a person's oral fluid by means of a device of a type approved by the Minister under section 72(2)(d) for the purpose of providing a preliminary indication of the presence of prescribed illicit drugs in the oral fluid, and a person *undergoes* a preliminary oral fluid test if the person provides a sample of the person's oral fluid for a preliminary oral fluid test;

preliminary test means a test of a sample of a person's breath by means of apparatus of a type approved by the Minister for the purpose of providing an indication of a person's blood alcohol content or an indication of whether or not a person's blood alcohol content is of or above a predetermined level or an indication of whether or not alcohol is present in the blood of a person;

prescribed illicit drug means a drug that is declared by the regulations to be a prescribed illicit drug;

registered nurse has the meaning given to that term in section 3 of the *Nurses and Midwives Act 2006* ;

self-testing breath analysing equipment means breath analysing equipment of a type that is designated as self-testing apparatus under section 72(2a).

66 . Requirement to submit sample of breath or blood for analysis

(1) A member of the Police Force may require the driver or person in charge of a motor vehicle, or any person he has reasonable grounds to believe was the driver or

person in charge of a motor vehicle, to provide a sample of his breath for a preliminary test in accordance with the directions of the member of the Police Force, and for the purposes of this subsection may require that person to wait at the place at which the first-mentioned requirement was made.

(1aa) A member of the Police Force may —

(a) call upon the driver of a motor vehicle to stop the vehicle;

(b) direct the driver of a motor vehicle to wait at a place indicated by the member of the Police Force,

in order that a requirement may be made under subsection (1).

(1a) Where a member of the Police Force —

(a) has reasonable grounds to believe that the presence of a motor vehicle has occasioned, or its use has been an immediate or proximate cause of, personal injury or damage to property; and

(b) does not know, or has doubt as to, who was the driver or person in charge of the motor vehicle at the time of that presence or use,

the member of the Police Force may require any person who he has reasonable grounds to believe may have been the driver or person in charge of the motor vehicle at that time to provide a sample of his breath for a preliminary test in accordance with the directions of the member of the Police Force, and for the purposes of this subsection may require that person to wait at the place at which the first-mentioned requirement was made.

(1b) Where a person required under subsection (1) or (1a) to provide a sample of breath for a preliminary test is in a motor vehicle, a member of the Police Force may require the person to leave the vehicle for the purpose of providing the sample.

(2) Where —

(a) a person having provided a sample of his breath for a preliminary test —

(i) it appears to a member of the Police Force that the preliminary test indicates that the person has a blood alcohol content of or above 0.05g of alcohol per 100ml of blood; or

(ii) it appears to a member of the Police Force that the preliminary test indicates that there is alcohol present in the blood of the person and the member of the Police Force has reasonable grounds to believe that the person is a person to whom section 64A(1) or 64AAA applies; or

(b) a person having been so required, refuses or fails to provide, or appears to a member of the Police Force to be incapable of providing a sample of his breath for a preliminary test or refuses or fails to provide, or appears to a member of the Police Force to be incapable of providing, a sample of his breath in sufficient quantity to enable a preliminary test to be carried out; or

(c) a member of the Police Force has reasonable grounds to believe that a person has committed an offence against section 63; or

(ca) a member of the Police Force —

(i) has reasonable grounds to believe that an offence against section 59(1)(a) or 59A(1)(a) has been committed; and

(ii) does not know, or has doubt as to, who was the driver of the motor vehicle concerned,

but has reasonable grounds to believe that a person may have been the driver of the motor vehicle; or

(d) a member of the Police Force —

(i) has reasonable grounds to believe that the presence of a motor vehicle has occasioned, or its use has been an immediate or proximate cause of, personal injury or damage to property; and

(ii) does not know, or has doubt as to, who was the driver or person in charge of the motor vehicle at the time of that presence or use,

but has reasonable grounds to believe that a person may have been the driver or person in charge of the motor vehicle at that time and that, if he was, he has committed an offence against section 63,

a member of the Police Force may require that person to provide a sample of his breath for analysis or to allow a medical practitioner or registered nurse to take a sample of his blood for analysis or to allow a sample of blood to be so taken and to provide a sample of his urine for analysis, pursuant to the provisions of subsections (4), (5), (6a), (7) and (8a), and for the purposes of this subsection may require that person to accompany a member of the Police Force to a police station or some other place, and may require that person to wait at any such police station or place.

(3) A person who is required to supply a sample of his breath for a preliminary test or for analysis shall comply with that requirement by providing the sample of his breath into approved apparatus in accordance with the directions of a member of the Police Force or an authorised person, as the case may be.

(4) A person shall not be required under subsection (2) to provide a sample of his breath for analysis if it appears to a member of the Police Force that —

[(a) *deleted*]

(b) the sample of breath could not be provided within 4 hours after the time at which driving, attempted driving, use or management of a motor vehicle in circumstances giving rise to the requirement is believed to have taken place; or

(c) because of his physical condition he is incapable of providing the specimen of breath or a specimen of breath in sufficient quantity for analysis.

(5) Where —

(a) a member of the Police Force might require a person to provide a sample of his breath for analysis under subsection (2) but is precluded from so doing by subsection (4) or section 68(11); or

(b) a member of the Police Force might, by virtue of subsection (1) or (1a), require a person to provide a sample of his breath for a preliminary test but it appears to the member of the Police Force that the physical condition of the person is such as to

render him incapable of providing a sample of his breath in accordance with the directions of the member of the Police Force for a preliminary test,

then the member of the Police Force may require the person to allow a medical practitioner or registered nurse nominated by the person to take a sample of his blood for analysis or where the person is incapable of complying with that requirement, that member of the Police Force may cause a medical practitioner or registered nurse to take a sample of the blood of the person for analysis.

(6) A person shall not be required to allow a medical practitioner or registered nurse to take a sample of his blood, and a medical practitioner or registered nurse shall not be caused to take a sample of the blood of a person under subsection (5) if it appears to the member of the Police Force that the sample cannot be taken within 4 hours after the time at which driving, attempted driving, use or management of a motor vehicle in circumstances giving rise to the requirement is believed to have taken place.

(6a) Where —

(a) a member of the Police Force might, by virtue of subsection (2)(c), (ca) or (d), require a person to provide a sample of his breath for analysis but is precluded from so doing by subsection (4); and

(b) under subsection (5), the member of the Police Force requires the person to allow a medical practitioner or registered nurse nominated by the person to take a sample of his blood for analysis,

the member of the Police Force may also require the person to provide the medical practitioner or registered nurse with a sample of his urine for analysis.

(7) A person who might, under the preceding provisions of this section, be required to provide a sample of his breath for analysis or to allow a medical practitioner or registered nurse to take a sample of his blood for analysis may himself require that he be permitted to do either of those things; and a person who has been required to provide a sample of his breath for analysis may himself require that, instead of so doing, he be permitted to allow a medical practitioner or registered nurse nominated by him to take a sample of his blood for analysis.

(8) A member of the Police Force shall give effect to the requirement of a person under subsection (7) if that can be done in terms of subsection (4) or (6), as the case may be.

(8a) Where —

(a) a person might be required under subsection (2)(c), (ca) or (d) to provide a sample of his breath for analysis and, under subsection (7), the person himself requires that he be permitted to allow a medical practitioner or registered nurse nominated by him to take a sample of his blood for analysis; or

(b) a person has been required under subsection (2)(c), (ca) or (d) to provide a sample of his breath for analysis and, under subsection (7), the person requires that, instead of so doing, he be permitted to allow a medical practitioner or registered nurse nominated by him to take a sample of his blood for analysis,

a member of the Police Force may require the person to also provide the medical practitioner or registered nurse with a sample of his urine for analysis.

(9) Where —

(a) pursuant to subsection (5) a member of the Police Force requires a person to allow a medical practitioner or registered nurse nominated by the person to take a sample of his blood for analysis and the person fails to nominate a medical practitioner or registered nurse; or

(b) pursuant to subsection (5) or (7) a person nominates a medical practitioner or registered nurse to take a sample of his blood but a member of the Police Force has reasonable grounds to believe that the medical practitioner or registered nurse so nominated —

(i) is not available within a distance of 40 kilometres;

(ii) is not available within the time limited by this section for taking blood samples;

(iii) refuses to take the blood sample; or

(iv) cannot readily be located,

the member of the Police Force may require the person to provide a sample of his breath for analysis or to allow a medical practitioner or registered nurse nominated by the member of the Police Force to take a sample of the person's blood for analysis and, where a requirement has been made under subsection (6a) or (8a), provide the medical practitioner or registered nurse with a sample of his urine for analysis, and for the purposes of this subsection may require the person to accompany a member of the Police Force to a place, and may require the person to wait at that place.

(10) Where a person is apparently unconscious or seriously injured a member of the Police Force shall facilitate the provision of medical assistance for that person.

(11) Where a person provides a sample of his breath for analysis pursuant to a requirement made under subsection (2)(c), (ca) or (d), or pursuant to his own requirement made under subsection (7), and the analysis result obtained pursuant to section 68 indicates —

(a) that there is no alcohol present in the blood of the person; or

(b) that the person's blood alcohol content is such that it does not reasonably explain the conduct, condition or appearance of the person by reason of which the requirement was made,

a member of the Police Force may require the person —

(c) to allow a medical practitioner or registered nurse nominated by the person to take a sample of his blood for analysis; or

(d) to provide a medical practitioner or registered nurse nominated by the person with a sample of his urine for analysis,

or to do both of those things, and for the purposes of this subsection may require the person to accompany a member of the Police Force to a place, and may require the person to wait at that place.

(12) A person shall not be required —

(a) to allow a medical practitioner or registered nurse to take a sample of his blood; or

(b) to provide a medical practitioner or registered nurse with a sample of his urine,

under subsection (11), and a medical practitioner or registered nurse shall not be caused to take a sample of the blood of a person under that subsection, if it appears to the member of the Police Force that the sample cannot be taken or given, as the case may be, within 4 hours after the time at which driving, attempted driving, use or management of a vehicle in circumstances giving rise to the requirement is believed to have taken place.

(13) Where pursuant to subsection (11) —

(a) a member of the Police Force requires a person —

(i) to allow a medical practitioner or registered nurse nominated by the person to take a sample of his blood for analysis; or

(ii) to provide a medical practitioner or registered nurse nominated by the person with a sample of his urine for analysis,

or to do both of those things, and the person fails to nominate a medical practitioner or registered nurse; or

(b) a person nominates a medical practitioner or registered nurse to take a sample of his blood or to collect a sample of his urine, or for both of those purposes, but a member of the Police Force has reasonable grounds to believe that the medical practitioner or registered nurse so nominated —

(i) is not available within a distance of 40 kilometres;

(ii) is not available within the time prescribed by subsection (12);

(iii) refuses to take the blood sample or collect the urine sample or to do either of those things; or

(iv) cannot readily be located,

the member of the Police Force may require the person —

(c) to allow a medical practitioner or registered nurse nominated by the member of the Police Force to take a sample of his blood for analysis; or

(d) to provide a medical practitioner or registered nurse nominated by the member of the Police Force with a sample of his urine for analysis,

or to do both of those things, as the case may require, and for the purposes of this subsection the member of the Police Force may require the person to accompany a member of the Police Force to a place, and may require the person to wait at that place.

(14) A person who is required or is permitted under this section to allow a medical practitioner or registered nurse to take a sample of his blood for analysis may, subject to subsections (9) and (13), nominate a medical practitioner or registered nurse of his own choice to take that sample.

(15) A person who is required under this section to provide a sample of his urine to a medical practitioner or registered nurse for analysis may, subject to subsections (9) and (13), provide that sample to a medical practitioner or registered nurse of his own choice.

68 . Analysis of alcohol in breath

(1) Where, pursuant to section 66, a person provides a sample of his breath for analysis the analysis shall be made by breath analysing equipment.

(1a) If the breath analysing equipment is not self-testing breath analysing equipment subsections (1b) to (4) shall have effect in relation to the analysis.

(1b) The breath analysing equipment shall be operated by an authorised person and shall be operated in accordance with the regulations relating to analysis by breath analysing equipment of the relevant type.

(2) At the conclusion of the analysis the authorised person shall determine in accordance with the regulations whether the breath analysing equipment is in proper working order.

(3) Subject to subsection (11), if the breath analysing equipment is determined not to be in proper working order a member of the Police Force may again require the person to provide a sample of his breath for analysis or to allow a medical practitioner or registered nurse to take a sample of his blood for analysis under section 66(2).

(4) If the breath analysing equipment is determined to be in proper working order —

(a) the result indicated by the breath analysing equipment at the conclusion of the analysis shall be the analysis result and the person's blood alcohol content given by or derived under section 65A from the analysis result shall be deemed to be the person's blood alcohol content at the time the sample of breath was provided; and

(b) the authorised person shall complete, sign, and hand to the person a statement in writing of the analysis result (which may be by way of an indication on a scale) and of the date and time of the analysis.

(5) If the breath analysing equipment is self-testing breath analysing equipment subsections (6) to (10) shall have effect in relation to the analysis.

(6) The breath analysing equipment shall be operated by an authorised person and shall be operated in accordance with the regulations relating to analysis by self-testing breath analysing equipment of the relevant type.

(7) Subject to subsection (11), if the breath analysing equipment does not indicate a result in the prescribed manner at the conclusion of the analysis, a member of the Police Force may again require the person to provide a sample of his breath for analysis or to allow a medical practitioner or registered nurse to take a sample of his blood for analysis under section 66(2).

(8) If the breath analysing equipment indicates a result in the prescribed manner at the conclusion of the analysis, the result so indicated shall be the analysis result and the person's blood alcohol content given by or derived under section 65A from the analysis result shall be deemed to be the person's blood alcohol content at the time the sample of breath was provided.

(9) Subject to subsection (10), the authorised person shall complete, sign, and hand to the person a statement in writing of the analysis result and of the date and time of the analysis.

(10) If the manner of indication of a result prescribed for the purposes of subsections (7) and (8) is the printing of a statement by the breath analysing equipment,

the authorised person may comply with the requirements of subsection (9) by signing and dating the statement so printed and handing it to the person.

(11) If the person has provided 2 samples of his breath for analysis under section 66(2) and the analysis of each sample has failed, the person shall not be required to provide another sample of his breath for analysis under section 66(2).

(12) For the purposes of subsection (11) an analysis of a sample of breath shall be regarded as having failed if, and only if —

(a) the analysis is made by breath analysis equipment that is not self-testing breath analysing equipment and the breath analysing equipment is determined not to be in proper working order; or

(b) the analysis is made by self-testing breath analysing equipment and the breath analysing equipment does not indicate a result in the prescribed manner.

67 . Failure to comply with requirement as to provision of breath, blood or urine sample for analysis

(1) In this section *requirement* means a requirement of a member of the Police Force made pursuant to section 66.

(2) A person who fails to comply with a requirement —

(a) to provide a sample of his breath for analysis;

(b) to allow a medical practitioner or registered nurse to take a sample of his blood for analysis; or

(c) to provide a medical practitioner or registered nurse with a sample of his urine for analysis,
commits an offence.

(3) Subject to subsection (3a), a person convicted of an offence against this section is liable —

(a) for a first offence —

(i) if the person has been previously convicted of an offence against section 64, to a fine of —

(I) not less than the minimum fine that would apply if the offence were against that section instead of this section and the person's blood alcohol content were above 0.14g of alcohol per 100ml of blood; and

(II) not more than 50 PU,

and, in any event, the court convicting that person shall order that the person be [disqualified](#) from holding or obtaining a driver's licence for a period of not less than the minimum period of [disqualification](#) that would apply if the offence were against that section instead of this section and the person's blood alcohol content were above 0.14g of alcohol per 100ml of blood;

(ii) in any other case, to a fine of not less than 16 PU or more than 50 PU; and, in any event, the court convicting that person shall order that the person be [disqualified](#) from holding or obtaining a driver's licence for a period of not less than 6 months;

(b) for a second offence, to a fine of not less than 30 PU or more than 70 PU or to imprisonment for 9 months; and, in any event, the court convicting that person shall order that he be [disqualified](#) from holding or obtaining a driver's licence for a period of not less than 2 years;

(c) for any subsequent offence, to a fine of not less than 40 PU or more than 100 PU or to imprisonment for 18 months; and, in any event, the court convicting that person shall order that he be permanently [disqualified](#) from holding or obtaining a driver's licence.

(3a) If when a requirement is made a member of the Police Force —

(a) advises the person concerned that the member of the Police Force believes that the motor vehicle of which the person was, or is believed to have been, the driver has been involved in an incident occasioning the death of, or grievous bodily harm or bodily harm to, another person; and

(b) explains to the person the consequences under this subsection of failure to comply with the requirement,

an offence against this section of failing to comply with that requirement is a crime and a person convicted of it is liable to a fine of any amount and imprisonment for 14 years and in any event the court convicting the person shall order that the person be [disqualified](#) from holding or obtaining a driver's licence for a period of not less than 2 years.

Summary conviction penalty: imprisonment for 18 months or a fine of 160 PU and in any event the court convicting the person shall order that he be [disqualified](#) from holding or obtaining a driver's licence for a period of not less than 18 months.

(4) For the purposes of subsection (3), where a person is convicted of an offence against this section any offence previously committed by him against section 63 shall be taken into account and be deemed to have been an offence against this section (but not to the exclusion of any other previous offence against this section) in determining whether that first-mentioned offence is a first, second, third or subsequent offence but any offence committed by him against this section as in force before the coming into operation of section 16 of the *Road Traffic Amendment Act (No. 2) 1982*¹ shall not be taken into account for that purpose.

(5) It shall be a defence to a prosecution for an offence against this section if the accused satisfies the court that there was some substantial reason for his failure to comply other than a desire to avoid providing information that might be used as evidence.

(6) Without limiting the generality of subsection (5) it shall be a defence to a prosecution for failing to comply with a requirement mentioned in subsection (2)(c) if the accused satisfies the court that he attempted to comply with the requirement.

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 [1984 c. 60.] 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) In subsection (9)—

(a) for the words “or saliva” there shall be substituted the words “or a dental impression”; and

(b) at the end there shall be inserted the words “and a dental impression may only be taken by a registered dentist”.

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)”.

(6) After subsection (9) there shall be inserted the following subsection—

“(10) Subsection (3B) above shall not apply to persons convicted before the date on which that subsection comes into force.”.

56 Fingerprints and samples: supplementary provisions

The following section shall be inserted after section 63 of the [1984 c. 60.] Police and Criminal Evidence Act 1984—

“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.”.

57 Retention of samples in certain cases

(1) Section 64 of the [1984 c. 60.] 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,”.

(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.”.

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 [1984 c. 24.] 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.”.

59 Extension of powers to search persons' mouths

(1) In section 65 of the [1984 c. 60.] 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”.

Powers of police to stop and search

60 Powers to stop and search in anticipation of violence

(1) Where a police officer of or above the rank of superintendent reasonably believes that—

(a) incidents involving serious violence may take place in any locality in his area, and

(b) it is expedient to do so to prevent their occurrence,

he may give an authorisation that the powers to stop and search persons and vehicles conferred by this section shall be exercisable at any place within that locality for a period not exceeding twenty four hours.

(2) The power conferred by subsection (1) above may be exercised by a chief inspector or an inspector if he reasonably believes that incidents involving serious violence are imminent and no superintendent is available.

(3) If it appears to the officer who gave the authorisation or to a 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 incident falling within the authorisation, he may direct that the authorisation shall continue in being for a further six hours.

(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.

(5) A constable may, in the exercise of those powers, 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.

(8) A person who fails to stop or (as the case may be) to stop the vehicle 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 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.

(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 and similarly as respects a pedestrian who is stopped and searched under this section.