

SCHEDULES

SCHEDULE 3

BORDER SECURITY

Modifications etc. (not altering text)

- C1** Sch. 3 modified (30.9.2020 immediately after the amendments by S.I. 2020/915, art. 5 come into force) by [The Channel Tunnel \(Arrangements with the Kingdom of the Netherlands\) Order 2020 \(S.I. 2020/916\)](#), arts. 1(3), **6**
- C1** Sch. 3 modified by [S.I. 1994/1405](#), **art. 7** (as amended (coming into force in accordance with art. 1(3) of the amending S.I.) by [The Channel Tunnel \(International Arrangements and Miscellaneous Provisions\) \(Amendment\) Order 2020 \(S.I. 2020/915\)](#), arts. 1(3), **11**)
- C1** [Sch. 3](#) modified by [S.I. 1993/1813](#), **Sch. 4 para. 7** (as inserted (12.2.2019 for specified purposes; 13.8.2020 in so far as not already in force) by [Counter Terrorism and Border Security Act 2019 \(c. 3\)](#), s. 27(1)(g), [Sch. 3 para. 63\(1\)](#) (with s. 25(9), **Sch. 3 para. 63(2)**); [S.I. 2020/792](#), **reg. 2(g)**)

PART 2

DETENTION

Fingerprints and samples: England, Wales and Northern Ireland

- 34 (1) This paragraph applies where a detainee is detained in England, Wales or Northern Ireland.
- (2) Fingerprints may be taken from the detainee only if they are taken by a constable—
- (a) with the appropriate consent given in writing, or
 - (b) without that consent under sub-paragraph (4).
- (3) A non-intimate sample may be taken from the detainee only if it is taken by a constable—
- (a) with the appropriate consent given in writing, or
 - (b) without that consent under sub-paragraph (4).
- (4) Fingerprints or a non-intimate sample may be taken from the detainee without the appropriate consent only if—
- (a) the detainee is detained at a police station and a police officer of at least the rank of superintendent authorises the fingerprints or sample to be taken, or
 - (b) the detainee has been convicted of a recordable offence and, where a non-intimate sample is to be taken, was convicted of the offence on or after 10th April 1995 (or 29th July 1996 where the non-intimate sample is to be taken in Northern Ireland).
- (5) An officer may give an authorisation under sub-paragraph (4)(a) only if—

Changes to legislation: There are currently no known outstanding effects for the Counter-Terrorism and Border Security Act 2019, Cross Heading: Fingerprints and samples: England, Wales and Northern Ireland. (See end of Document for details)

- (a) in the case of the taking of fingerprints or samples, condition 1 is met, or
 - (b) in the case of the taking of fingerprints, condition 2 is met.
- (6) Condition 1 is met if the officer is satisfied that it is necessary for the fingerprints or sample to be taken in order to assist in determining whether the detainee is or has been engaged in hostile activity.
- (7) Condition 2 is met if—
- (a) the officer is satisfied that the fingerprints of the detainee will facilitate the ascertainment of the detainee's identity, and
 - (b) the detainee has refused to identify himself or herself or the officer has reasonable grounds for suspecting that the detainee is not who the detainee claims to be.
- (8) In this paragraph references to ascertaining a person's identity include references to showing that the person is not a particular person.
- (9) If an authorisation under sub-paragraph (4)(a) is given orally, the person giving it must confirm it in writing as soon as is reasonably practicable.

Commencement Information

- I1** Sch. 3 para. 34 in force at Royal Assent for specified purposes, see. s. 27(1)(g)(2)(c)
- I2** Sch. 3 para. 34 in force at 13.8.2020 in so far as not already in force by [S.I. 2020/792, reg. 2\(g\)](#)

- 35 (1) Before fingerprints or a sample are taken from a person under paragraph 34, the person must be informed—
- (a) that the fingerprints or sample may be used for the purposes of—
 - (i) a relevant search, as defined by paragraph 43(6),
 - (ii) section 63A(1) of the Police and Criminal Evidence Act 1984, or
 - (iii) Article 63A(1) of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12)), and
 - (b) where the fingerprints or sample are to be taken under paragraph 34(2)(a), (3)(a) or (4)(b), of the reason for taking the fingerprints or sample.
- (2) Before fingerprints or a sample are taken from a detainee upon an authorisation given under paragraph 34(4)(a), the detainee must be informed—
- (a) that the authorisation has been given,
 - (b) of the grounds upon which it has been given, and
 - (c) where relevant, of the nature of the offence in which it is suspected that the detainee has been involved.
- (3) After fingerprints or a sample are taken under paragraph 34, any of the following which apply must be recorded as soon as reasonably practicable—
- (a) the fact that the person has been informed in accordance with sub-paragraphs (1) and (2),
 - (b) the reason referred to in sub-paragraph (1)(b),
 - (c) the authorisation given under paragraph 34(4)(a),
 - (d) the grounds upon which that authorisation has been given, and
 - (e) the fact that the appropriate consent has been given.

Changes to legislation: There are currently no known outstanding effects for the Counter-Terrorism and Border Security Act 2019, Cross Heading: Fingerprints and samples: England, Wales and Northern Ireland. (See end of Document for details)

- (4) Where a sample of hair is to be taken under paragraph 34, 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.

Commencement Information

- I3** Sch. 3 para. 35 in force at Royal Assent for specified purposes, see. s. 27(1)(g)(2)(c)
I4 Sch. 3 para. 35 in force at 13.8.2020 in so far as not already in force by [S.I. 2020/792](#), **reg. 2(g)**

- 36 (1) In the application of paragraphs 26, 34 and 35 in relation to a person detained in England or Wales, the following expressions have the meaning given by section 65 of the Police and Criminal Evidence Act 1984—
- (a) “appropriate consent”,
 - (b) “fingerprints”,
 - (c) “intimate sample”,
 - (d) “non-intimate sample”, and
 - (e) “sufficient”.
- (2) In the application of section 65(2A) of the Police and Criminal Evidence Act 1984 for the purposes of sub-paragraph (1) of this paragraph, the reference to the destruction of a sample under section 63R of that Act is a reference to the destruction of a sample under paragraph 43 of this Schedule.
- (3) In the application of paragraphs 26, 34 and 35 in relation to a person detained in Northern Ireland, the expressions listed in sub-paragraph (1) have the meaning given by Article 53 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12)).
- (4) In paragraph 34 “recordable offence” has—
- (a) in relation to a detainee in England or Wales, the meaning given by section 118(1) of the Police and Criminal Evidence Act 1984, and
 - (b) in relation to a detainee in Northern Ireland, the meaning given by Article 2(2) of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12)).

Commencement Information

- I5** Sch. 3 para. 36 in force at Royal Assent for specified purposes, see. s. 27(1)(g)(2)(c)
I6 Sch. 3 para. 36 in force at 13.8.2020 in so far as not already in force by [S.I. 2020/792](#), **reg. 2(g)**

Changes to legislation:

There are currently no known outstanding effects for the Counter-Terrorism and Border Security Act 2019, Cross Heading: Fingerprints and samples: England, Wales and Northern Ireland.