

**An Garda Síochána
Code of Practice
as per *Section 157*
Criminal Justice
(Forensic Evidence and
DNA Database System)
Act, 2014**

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DNA Database System

The DNA Database System shall be used for the investigation and prosecution of criminal offences. It will also be utilised in finding or identifying missing persons, the identification of seriously ill or severely injured persons who are unable by reason of the illness or injury to indicate their identity and in the identification of the bodies of unknown deceased persons.

Overview of The DNA Database System

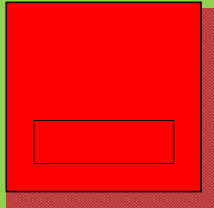
The DNA Database System is comprised of two divisions –

1. The Investigative Division which shall contain:
 - a. the crime scene index
 - b. the reference index
 - c. the elimination (Garda Síochána) index
 - d. the elimination (Crime Scene Investigators) index
 - e. the elimination (Prescribed Persons) index

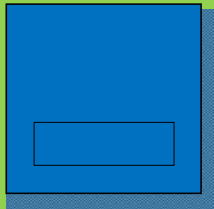
2. The identification division of the DNA Database System which shall contain the missing and unknown persons index of DNA profiles and information that may be used to identify or describe the person from whose biological material each DNA profile was generated. In the case of the DNA profile of a blood relative of a missing person that is entered in that index, it may be used to associate that DNA profile with the missing person.

DNA Database System

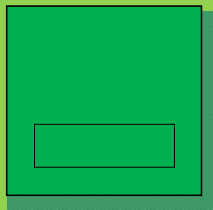
Investigation Division



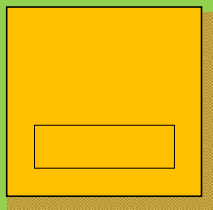
Crime Scene Index



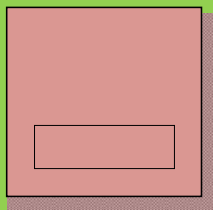
Reference Index



Elimination (Garda Síochána) Index

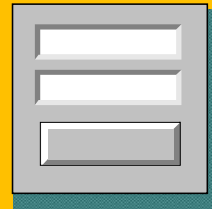


Elimination (Crime Scene Investigation)
Index



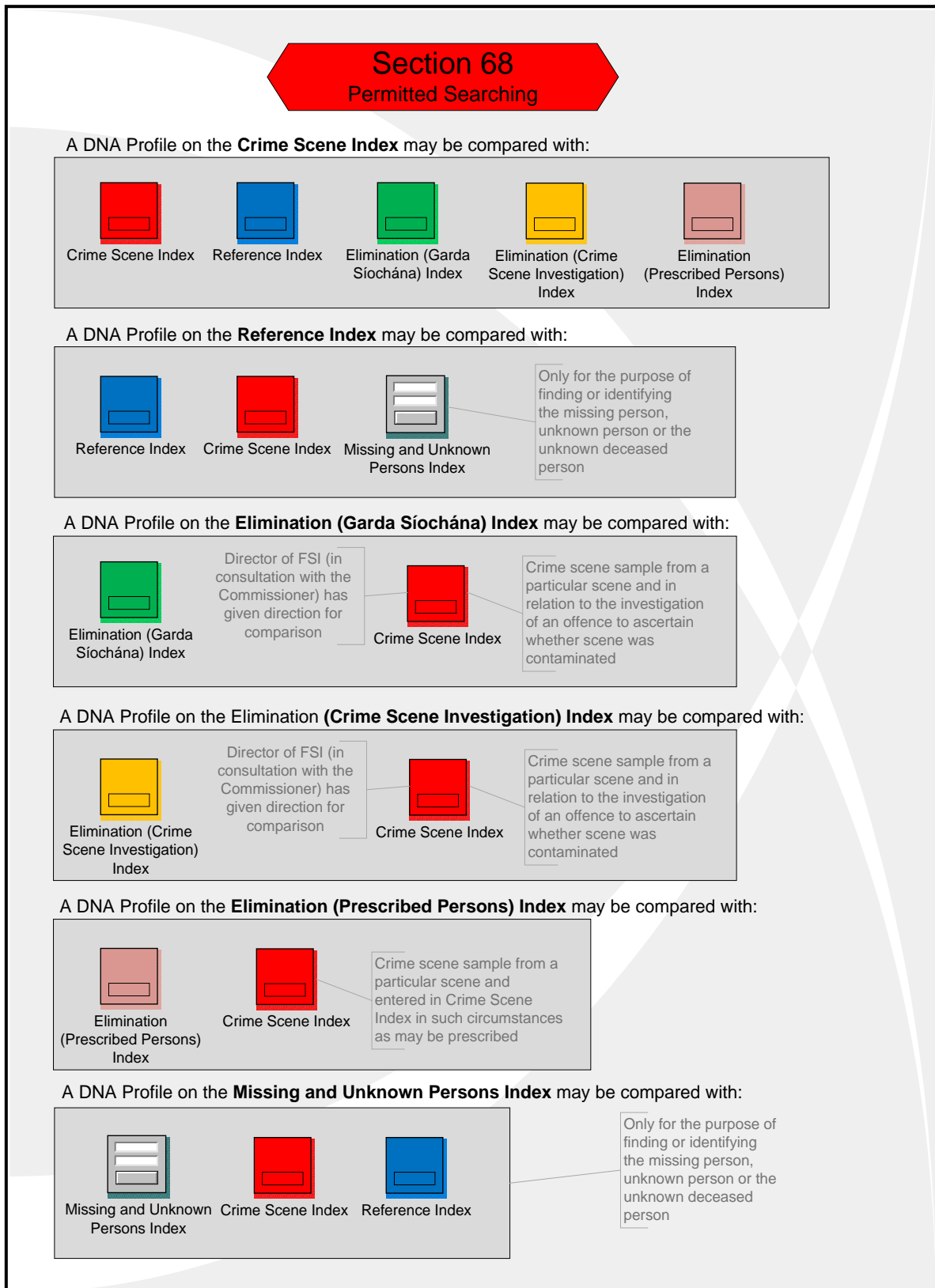
Elimination (Prescribed Persons) Index

Identification Division



Missing and Unknown Persons Index

The following chart illustrates an overview of the various indexes contained in both the investigative and the identification division of the DNA Database System. *Section 68* of the Act specifies the rules in accordance with which a DNA profile entered in an index may be compared to another profile in either that index or in another index (as permitted).



The Investigative Division explained:

The Investigative Division shall contain the following five indexes:

- ***The crime scene index*** shall comprise of the DNA profiles of persons generated from samples of biological material found at or recovered from a crime scene.
- ***The reference index*** shall comprise of the DNA profiles of persons generated from samples taken under *Sections 11, 12, 13, 31, 32, 34 & 35* of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014. Samples taken under *Section 27* may, subject to the consent of the volunteer, also be entered into the Reference index.
- ***The elimination (Garda Síochána) index*** shall comprise of the DNA profiles of persons generated from samples of members of An Garda Síochána in relation to the investigation of offences, for the purpose of ascertaining if the member has contaminated a crime scene sample. Profiles generated from these samples will be entered into the elimination (Garda Síochána) index of the DNA Database System. *Section 41* of the Act provides for the taking of samples from members, reserve members, and trainee members / reserve members. Persons who are appointed as members of An Garda Síochána or who are admitted to training for membership of An Garda Síochána after the commencement of *Section 41* of the Act will be obliged to provide a sample in order to generate a DNA profile on the elimination (Garda Síochána) index of the DNA Database System. For more information on the elimination (Garda Síochána) index see *Section 41* of the Act
- ***The elimination (crime scene investigators) index*** shall comprise of the DNA profiles generated from samples of persons who are assigned to duties relating to the investigation or technical examination of crime scenes (or anything found at or recovered from crime scenes) in relation to the investigation of offences, for the purpose of ascertaining if the person has contaminated a crime scene sample. Profiles generated from these samples will only be entered into the elimination (crime scene investigators) index of the DNA Database System.

For further information on this Index see *Section 42* of the Act.

- ***The elimination (prescribed persons) index*** shall comprise of the DNA profiles generated from samples taken from the following persons whom the Minister for Justice considers appropriate:
 - (a) officers who are assigned to perform duties in the State Pathologists Office;
 - (b) members of the staff of the Garda Síochána Ombudsman Commission;
 - (c) other persons or class of persons who, by reason of the functions or tasks performed or carried out by them, may inadvertently contaminate crime scene samples.

Such samples will only be taken for the purpose of generating a DNA profile in respect of the prescribed person, in relation to the investigation of offences, in order to ascertain if that person has contaminated a crime scene sample.

The Identification Division explained:

The Identification Division of the DNA Database System will comprise of the missing and unknown persons index of DNA profiles and information that may be used to:

- (a) identify / describe a person from whose biological material a DNA profile was generated (pursuant to *Sections 48, 49 & 50* of the Act) and;
- (b) associate that DNA profile with a missing person where the DNA profile of a blood relative of that missing person is entered in the index.

**Part 2 - Taking of Samples
from Persons in Custody
of An Garda Síochána**

Section 26 - Samples not to be taken from persons in custody of An Garda Síochána other than in accordance with Part 2 of the Act (Taking of samples from persons in custody of An Garda Síochána)

Members of An Garda Síochána shall not take a bodily sample from a detained person other than in accordance with *Part 2* of the Act following the commencement of this Part, thus abolishing the common law power to take samples from a suspect in custody with his / her consent.

Section 9 – Power to take samples from persons in custody of An Garda Síochána

In order to take a sample or samples from a person in custody, the person must be detained under one of the following detention provisions:

- (a) Section 30 of the Offences Against the State Act, 1939;*
- (b) Section 4 of the Criminal Justice Act, 1984*
- (c) Section 2 of the Criminal Justice (Drug Trafficking) Act, 1996;*
- (d) Section 42 of the Criminal Justice Act, 1999;*
- (e) Section 50 of the Criminal Justice Act, 2007;*
- (f) Section 16 or 17 of the Criminal Procedure Act, 2010.*

In respect of persons detained under *Section 42* of the Criminal Justice Act, 1999, a sample may be taken from the person in relation to the investigation of an offence other than the offence for which he / she is in prison.

Section 10 – Protected Persons¹ for purposes of Part 2 of the Act (Taking of Samples from Persons in Custody of An Garda Síochána)

Legislation

Section 10 outlines the procedure for determining whether or not a person is a protected person for the purposes of the Act. In circumstances when an intimate sample is authorised and the member in charge is of the opinion that the person concerned is a protected person, he / she shall arrange to have the condition of the person assessed by a registered medical practitioner. The registered medical practitioner shall, after the assessment, certify if the person concerned is a protected person or not. The certificate provided must specify the reasons for the registered medical practitioner concluding that the person is or is not a protected person.

Code of Practice

- Where a person is detained in a Garda Station under any of the provisions referred to in *Section 9(1)* of the Act, the member in charge shall determine, as soon as is practicable whether or not the person is a protected person or not.
- Where an authorisation to take an intimate sample from the person under *Section 12* is given and the member in charge is of the opinion that the person may be a protected person:
 - (a) He / she shall arrange for a registered medical practitioner to assess the person for the purpose of certifying whether or not that person is a protected person or not.
 - (b) A certificate should be provided by the registered medical practitioner specifying the reasons why such practitioner believes the person to be a protected person or not.

>> DNA Form 10(3) refers <<

¹ Protected person – a person (including a child) who by reason of a mental or physical disability:

- (a) lacks the capacity to understand the general nature and effect of the taking of a sample from him/her, or
- (b) lacks the capacity to indicate (by speech, sign language or any other means of communication) whether or not he/she consents to a sample being taken from him/her.

A mental or physical disability in relation to a person (including a child) shall be construed as not including a reference to the person being under the intoxicating influence of any alcoholic drink, drug, solvent or any other substance or combination of substances i.e. intoxication resultant from alcohol, drugs, solvents, any other substance/combination of substances shall, not, for the purposes of the Act, cause a person to be considered a protected person.

Section 11- Taking of samples from persons in custody of An Garda Síochána for the purposes of the DNA Database System:

Legislation

A sample may be taken under *Section 11* of the Act for the purpose of generating a person's DNA profile for inclusion in the Reference index of the DNA Database System only if the person is detained for a relevant offence under any of the following detention provisions:

- (g) Section 30 of the Offences Against the State Act, 1939;*
- (h) Section 4 of the Criminal Justice Act, 1984*
- (i) Section 2 of the Criminal Justice (Drug Trafficking) Act, 1996;*
- (j) Section 42 of the Criminal Justice Act, 1999;*
- (k) Section 50 of the Criminal Justice Act, 2007;*
- (l) Section 16 or 17 of the Criminal Procedure Act, 2010.*

A sample taken under *Section 11* is not taken for evidential purposes; it is taken solely for the purposes of generating a DNA profile in the Reference index of the DNA Database. Samples cannot be taken under *Section 11* from either protected persons or from a child who has not reached the age of 14.

Code of Practice

- Person must be detained under specified detention provisions as outlined in *Section 9(1)*.
- Authorisation to take a sample given by a member not below the rank of Sergeant.
>> DNA Form 11(2) refers <<
- Before a sample is taken by a member from a person under *Section 11* the member must inform the person of the following:
>> DNA Information 11(3) refers <<
 - i. An authorisation to take a sample has been given by a member not below the rank of Sergeant;
 - ii. If a sample has already been taken under *Section 11* and is insufficient², a new authorisation to take a second sample will not be required if the insufficiency is apparent within 1 hour of taking the first sample. After 1 hour a new authorisation may be given under *Section 25*;

² An **insufficient sample** may result from:

- (a) the loss, destruction or contamination of the whole or any part of the sample;
- (b) any damage to the whole or a part of the sample;
- (c) the use of the whole/part of the sample for analysis which produced results some or all of which have to be regarded, in the circumstances as unreliable.

- iii. That the sample will be used to generate a DNA profile that will be entered into the reference index of the DNA Database system and the effect of that entry³;
- iv. That the sample, or the DNA profile generated from it in respect of the person may be transmitted or provided to a person or body in connection with the investigation of criminal offences or criminal proceedings (whether within or outside the State) as provided for in the Act;
- v. That the sample may be destroyed, and the DNA profile entered in the Reference index of the DNA Database System may be removed from that System in accordance with *Part 10* of the Act.
- vi. That if the person (other than a child) fails / refuses to allow the sample to be taken, reasonable force may be used in accordance with *Section 24* of the Act.

Reasonable Force

Reasonable force pursuant to *Section 24* is permitted in certain circumstances when taking a sample under *Section 11*.

- Should reasonable force be considered necessary to take a sample or to prevent the loss, destruction or contamination of a sample, authorisation must be obtained from a member not below the rank of Superintendent.
>> DNA Form 24(3) refers <<
- Where it is intended to use reasonable force in this circumstance the member must inform the person of the intention and that an authorisation to do so has been granted.
>> DNA Information 24(4) refers <<
- A sample taken using reasonable force must be conducted in the presence of a member not below the rank of Inspector who shall determine the number of members of An Garda Síochána required to take a sample using reasonable force.
- The taking of a *Section 11* sample using reasonable force pursuant to *Section 24* shall be recorded by electronic or similar means.
- *Section 11* samples shall not be taken using force from children.

³ **Effect of the entry of a DNA profile onto the Reference index of the DNA Database System** – once a DNA profile is generated from a sample it shall be entered onto the Reference index where it may be compared with the other DNA profiles entered in that index; the DNA profiles entered in the crime scene index, and; the DNA profiles entered in the missing and unknown persons.

Section 11
[Taking Sample for purposes of
DNA Database System]
(For Intelligence & Non-Evidential
Purposes)

Sergeant (or above)
authorises sample to
be taken

Information provided to person
prior to sample being taken

Sample taken and
DNA profile in
respect of person is
entered in the
Reference Index
of the DNA Database
System

Where sample has
already been taken
and has proved to be
insufficient another
sample may be taken
subject to Section 3(6)
and Section 25(1)

If person refuses to
provide a sample
reasonable force under
Section 24 may be
used to take the
sample (other than in
the case of a child)

Sample taken may be
destroyed and the DNA
profile in respect of the
person entered in the
Reference Index may
be removed

Authorisation to take
sample has been given
by a Sergeant (or
above)

Sample taken will be
used to generate DNA
profile in the Reference
Index

Sample taken may be
transmitted or provided
to a person or body in
relation to the
investigation of criminal
offences or
proceedings

This Section **does NOT** apply to:

- * A protected person
- * A person who has not attained the
age of 14 years of age

Section 12 – Taking of intimate samples from persons in custody of An Garda Síochána

Legislation

A sample may be taken under *Section 12* of the Act for the purpose of forensic testing and, if appropriate, the generation of a DNA profile to be entered in the Reference index of the DNA Database System if the person is detained under one of the following detention provisions:

- (a) Section 30 of the Offences Against the State Act, 1939;*
- (b) Section 4 of the Criminal Justice Act, 1984*
- (c) Section 2 of the Criminal Justice (Drug Trafficking) Act, 1996;*
- (d) Section 42 of the Criminal Justice Act, 1999;*
- (e) Section 50 of the Criminal Justice Act, 2007;*
- (f) Section 16 or 17 of the Criminal Procedure Act, 2010.*

The sample is taken for forensic testing purposes and for evidential purposes in any proceedings.

An intimate sample may be any of the following:

- (a) blood,
- (b) pubic hair,
- (c) urine,
- (d) a swab from a genital region or a body orifice other than the mouth,
- (e) a dental impression.

Persons authorised to take intimate samples

Under *Section 18* the following provisions shall apply in relation to the taking of intimate samples:

- A sample of blood, pubic hair or a swab from a genital region or a bodily orifice other than the mouth shall only be taken by a registered medical practitioner or a registered nurse.
- A dental impression shall only be taken by a registered dentist or registered medical practitioner.
- An intimate sample other than a sample of blood or a dental impression shall, insofar as is practicable, be taken by a person who is of the same sex as the person from whom the sample is being taken.

Code of Practice

- Person must be detained under specified detention provisions as outlined in *Section 9(1)*.
- Authorisation to take an intimate sample to be given by a member not below the rank of Inspector provided he / she has reasonable grounds

>> DNA Form 12(2)(a) refers <<

- (a) for suspecting the involvement of the person from whom the sample is to be taken in the commission of an offence for which he / she is detained, and
 - (b) for believing that the sample will tend to confirm or disprove the involvement of that person in the commission of the offence concerned.
- The person from whom the sample is sought must provide appropriate written consent to same.

>> DNA Form 12(2)(b) refers <<

Before consent is sought the member seeking the consent must inform the person from whom the sample is sought of the following:

- (a) the nature of the offence in the commission of which it is suspected that the person has been involved;
- (b) that an authorisation to take an intimate sample has been granted by a member not below the rank of Inspector and the grounds on which it has been given;
- (c) if an intimate sample has already been taken under *Section 12* and is insufficient⁴, a new authorisation to take a second sample will not be required if the insufficiency is apparent within 1 hour of taking the first sample. After 1 hour a new authorisation may be given under *Section 25*;
- (d) that the results of the forensic testing of the sample may be given in evidence in any proceedings;
- (e) if appropriate, the sample will be used to generate a DNA profile to be entered in the Reference index of the DNA Database System the effect of such an entry⁵;
- (f) that the sample, or the DNA profile generated from the sample may be transmitted or provided to a person or body in connection with the

⁴ An **insufficient sample** may result from:

- (a) the loss, destruction or contamination of the whole or any part of the sample;
- (b) any damage to the whole or a part of the sample;
- (c) the use of the whole/part of the sample for analysis which produced results some or all of which have to be regarded, in the circumstances as unreliable.

⁵ **Effect of the entry of a DNA profile onto the Reference index of the DNA Database System** – once a DNA profile is generated from a sample it shall be entered onto the Reference index where it may be compared with the other DNA profiles entered in that index; the DNA profiles entered in the crime scene index, and; the DNA profiles entered in the missing and unknown persons.

investigation of criminal offences or criminal proceedings (whether within or outside the State) as provided for in or permitted by the Act;

- (g) that the sample may be compared (under *Section 145* of the Act) with evidence taken from a crime scene, including crime scene samples, received from a law enforcement agency⁶;
- (h) that the sample may be destroyed, and (if appropriate) the DNA profile entered in the Reference index of the DNA Database System may be removed from that System in accordance with *Part 10* of the Act.

Withdrawal / Refusal of consent in taking an intimate sample under Section 12:

Express withdrawal of consent, either before or during the taking of an intimate sample, shall be treated as a refusal to give consent. Withdrawal of consent may be deduced from the behaviour of the person before or during the taking of a sample. Once a sample has been taken it is not possible for the person to withdraw consent.

Withdrawal of consent shall be recorded in writing by a member of An Garda Síochána as soon as is practicable.

>> DNA Form 12(7) refers

Section 15 - Appropriate consent to taking of intimate samples

When taking intimate samples, appropriate consent means:

- in the case of a person who has attained the age of 18, the consent of the person;
- in the case of a protected person, the consent of a parent / guardian or an order of the District Court (pursuant to *Section 16* of the Act) authorising the taking of an intimate sample from the person;
- in the case of a child (other than a protected person)
 - (a) who has attained the age of 14 years, the consent of the child and either the consent of a parent or guardian of the child or an order of the District Court (pursuant to *Section 17* of the Act) authorising the taking of an intimate sample from the child
 - (b) who has not attained the age of 14 years, either the consent of a parent / guardian of the child or an order of the District Court (pursuant to *Section 17* of the Act) authorising the taking of an intimate sample from the child

⁶ Law enforcement agency means a police force or other authority in a place other than the State which is responsible for the prevention, detection, or investigation of criminal offences in relation to that place or the International Criminal Police Organisation (Interpol).

A parent or guardian may be excluded from giving consent to the taking of an intimate sample from a child or protected person in certain circumstances, namely if–

- (a) he / she is the victim of the offence;
- (b) he / she has been arrested in respect of the offence;
- (c) the member in charge has reasonable grounds for suspecting him or her of complicity in the offence; or
- (d) the member in charge has reasonable grounds for believing that he or she is likely to obstruct the course of justice.

The exclusion of one parent or guardian under the above grounds does not prevent another parent or guardian from being asked to give consent.

Before consent is sought from a parent / guardian of a child / protected person to take an intimate sample from that child / protected person, the parent / guardian must be given the information that is required to be given to the detained person under *Section 12(5)*.

Section 16 & 17 - Application for court order authorising taking of intimate samples from protected persons and children respectively

A member of An Garda Síochána not below the rank of Inspector may apply to a judge of the District Court for an order to take an intimate sample from a protected person or child in the following circumstances:

- (a) when a parent / guardian cannot be contacted despite reasonable efforts by An Garda Síochána to do so;
- (b) if a parent / guardian indicates that he / she cannot or will not attend at the Garda Station within a reasonable time period;
- (c) if the member in charge cannot ascertain within a reasonable period, despite having made reasonable efforts, that a protected person / child has a living parent / guardian;
- (d) if a parent / guardian refuses to consent to the taking of an intimate sample;
- (e) if the parent / guardian is excluded pursuant to the provisions of *Section 15* of the Act from giving consent.

A member who intends to make an application under these Sections shall inform the child concerned and, if it is reasonably practicable to do so, a parent / guardian of the protected person / child, other than a parent / guardian who is excluded pursuant to *Section 15* of the Act.

In such circumstances as outlined above a member of An Garda Síochána not below the rank of Inspector may apply to a judge of the District Court for an order authorising the taking of an intimate sample from the protected person / child.

- A member who intends to make an application pursuant to *Section 16 or 17* shall inform the protected person / child concerned and, if it is reasonably practicable to do so, a parent / guardian of the protected person / child other than a parent / guardian to whom *Section 15(2)* applies.
- Upon application, by a member not below the rank of Inspector, a judge of the District Court may order that an application made pursuant to *Section 16 or 17* shall be heard in public or that a parent / guardian of the protected person / child concerned to whom *Section 15(2)* applies shall be excluded from the Court during the hearings or both if
 - (a) The judge is satisfied that it is desirable to do so to avoid the risk of prejudice to the investigation of the relevant offence in respect of which the protected person / child concerned is detained, or
 - (b) The judge considers that it is otherwise desirable in the interests of justice to do so
- A judge of the District Court, when making an order under *Section 16 or 17* may, in cases when the protected person / child is detained under *Section 4 of the Criminal Justice Act, 1984*, issue a warrant authorising the detention of the protected person / child for a period not exceeding 4 hours for the purpose of having an intimate sample taken. This warrant of detention shall only be issued upon application to the judge in that regard by a member not below the rank of Inspector.

Section 19 - Inferences from refusal to consent / withdrawal of consent to taking an intimate sample:

Section 19 concerns the consequences that may follow a refusal to consent / withdrawal of consent to the taking of an intimate sample. Refusal / withdrawal of consent without reasonable cause may give rise to an adverse inference being drawn in subsequent criminal proceedings. Such inference may be treated as corroborating any evidence to which it is relevant however it may not be the main basis for a conviction.

>> DNA Form 19(2) refers <<

Such inferences may only be drawn if

- (a) the accused has been told in ordinary language by the member when seeking his / her consent that
 - the sample was required for the purpose of forensic testing
 - his / her consent was necessary, and
 - if his / her consent was not given, what the effect of a refusal withdrawal by him or her of such consent might be, and
- (b) he / she was informed before such refusal / withdrawal of consent occurred that he / she had the right to consult a solicitor and that other than where he / she waived that right, he / she was afforded an opportunity to consult with a solicitor before each refusal / withdrawal occurred.

Inferences may not be drawn from a refusal to give appropriate consent or a withdrawal of such consent by a person from whom an intimate sample is sought, unless the seeking of such consent by a member is recorded by electronic or similar means or the person consents in writing to it not being recorded.

The provisions contained in section 19 regarding the withdrawal / refusal of consent shall not apply to

- protected persons
- persons who have not attained the age of 14, or
- in the case when consent has been refused / withdrawn, by a parent / guardian of a child unless a District Court judge makes an order under *Section 17(6)* and the child refuses to comply with it.

Section 12
[Taking of Intimate Sample for purposes of Database System]
(For Intelligence & Evidential Purposes)

Authorisation only given where member of AGS has reasonable grounds for suspecting person has involvement in offence & belief that sample will confirm or disprove involvement

Appropriate consent has been given in writing to the taking of the sample

Inspector (or above) Authorises Sample to be taken

Informed of the nature of offence involved & that authorisation has been given

Sample taken may be destroyed and the DNA profile in respect of the person entered in the reference index may be removed

Sample taken will be used to generate DNA profile in the REFERENCE INDEX

Results of forensic testing may be given in evidence in any proceedings

Information provided to person prior to intimate sample being taken

Sample taken may be transmitted or provided to a person or body in relation to the investigation of criminal offences or proceedings

Sample taken may be compared with evidence taken from a crime scene

Where an intimate sample has already been taken but proves to be insufficient, another sample may be required (or not)

Withdrawal of appropriate consent can be treated as refusal to give consent and this will be recorded in writing by a member of AGS
NB: Appropriate consent cannot be withdrawn after the sample has been taken

Intimate Sample taken and DNA profile in respect of person is entered in the REFERENCE INDEX of the DNA Database System

Section 13 – Taking of non-intimate samples from persons in custody of An Garda Síochána

Legislation

Section 13 allows a member to take a non-intimate sample from a person for purposes of forensic testing and, if appropriate, the generation of a DNA profile to be entered in the reference index of the DNA Database System if the person is detained under one of the following detention provisions:

- (a) *Section 30 of the Offences Against the State Act, 1939;*
- (b) *Section 4 of the Criminal Justice Act, 1984*
- (c) *Section 2 of the Criminal Justice (Drug Trafficking) Act, 1996;*
- (d) *Section 42 of the Criminal Justice Act, 1999;*
- (e) *Section 50 of the Criminal Justice Act, 2007;*
- (f) *Section 16 or 17 of the Criminal Procedure Act, 2010.*

A sample is taken under this Section for the purposes of forensic testing in the investigation of a crime and for evidential purposes in respect of any proceedings. If a sample taken is one which may be used to generate a DNA profile then the sample can also be entered onto the reference index of the DNA Database System.

A non intimate sample may be any of the following:

- (a) saliva;
- (b) hair, other than pubic hair;
- (c) a nail;
- (d) any material found under a nail;
- (e) a swab from any part of the body including the mouth but not from any other body orifice or genital region;
- (f) a skin impression.

Code of Practice

- Person detained for a relevant offence under one of the specified detention provisions.
- Authorisation to take a non-intimate sample under *Section 13* of the Act shall only be given by a member not below the rank of Inspector, provided he / she has reasonable grounds –

>> DNA Form 13(2) refers <<

- (a) for suspecting the involvement of the person in the commission of an offence in respect of which he or she is detained, and
 - (b) for believing that the sample will tend to confirm or disprove the involvement of that person in the commission of the offence concerned
- Before a member takes a non-intimate sample from a person the member shall inform the person of the following:
 - >> DNA Information 13(5) refers <<**
 - i. the nature of the offence in the commission of which it is suspected that the person has been involved;
 - ii. that an authorisation to take a sample has been granted by a member not below the rank of Inspector and the grounds on which it has been given;
 - iii. if a non-intimate sample has already been taken under *Section 13* and is found to be insufficient or inadequately labelled⁷, a new authorisation to take a second sample will not be required if the insufficiency is apparent within 1 hour of taking the first sample. After 1 hour a new authorisation may be given under *Section 25*,
 - iv. that the results of the forensic testing of the sample may be given in evidence in any proceedings;
 - v. if appropriate the sample will be used to generate a DNA profile in respect of the person to be entered in the reference index of the DNA Database System and the effect of that entry⁸;
 - vi. that the sample, or DNA profile generated from the sample in respect of the person, may be transmitted or provided to a person or body in connection with the investigation of criminal offences or criminal proceedings (whether within or outside of the State) as provided for in or permitted by this Act;
 - vii. that the sample may be compared (pursuant to *Section 145* of the Act) with evidence taken from a crime scene (including crime scene samples) received from a law enforcement agency⁹;

⁷ An **insufficient sample** may result from:

- (a) the loss, destruction or contamination of the whole or any part of the sample;
- (b) any damage to the whole or a part of the sample;
- (c) the use of the whole/part of the sample for analysis which produced results, some or all of which have to be regarded in the circumstances as unreliable.

Inadequately labelled means incorrectly labelled or labelled in such a manner that it is not possible to identify with certainty the person from whom the sample was taken.

⁸ **Effect of the entry of a DNA profile onto the reference index of the DNA Database System** – once a DNA profile is generated from a sample it shall be entered onto the reference index where it may be compared with the other DNA profiles entered in that index; the DNA profiles entered in the crime scene index, and; the DNA profiles entered in the missing and unknown persons index.

⁹ Law enforcement agency means a police force or other authority in a place other than the State which is responsible for the prevention, detection, or investigation of criminal offences in relation to that place or the International Criminal Police Organisation (Interpol).

- viii. that the sample may be destroyed, and (if appropriate) the DNA profile generated and entered in the reference index of the DNA Database System may be removed from that System in accordance with *Part 10* of the Act;
- ix. if appropriate, if the person fails or refuses to allow the sample to be taken from him / her, reasonable force may be used in accordance with *Section 24* of the Act to take the sample.

Reasonable force

Reasonable force pursuant to *Section 24* is permitted in certain circumstances when taking a sample under *Section 13*.

- Should reasonable force be considered necessary to take a sample under *Section 13* or to prevent the loss, destruction or contamination of a sample, authorisation must be obtained from a member of An Garda Síochána not below the rank of Superintendent before this power is exercised.

>> DNA Form 24(3) refers <<

- Where it is intended to exercise reasonable force in this circumstance and members of An Garda Síochána concerned must inform the person of the intention and that an authorisation to do so has been granted.

>> DNA Information 24(4) refers <<

- A sample taken using reasonable force must be obtained in the presence of a member of An Garda Síochána not below the rank of Inspector who shall determine the number of members of An Garda Síochána that is reasonably considered necessary to take a sample using reasonable force.
- The taking of a non-intimate sample using reasonable force from a child who has not attained the age of 12 is not permitted. The taking of a non-intimate sample from a child who has attained the age of 12 years or older shall only be carried out if-
 - (a) a parent / guardian or if appropriate another adult who, pursuant to *Section 58 of the Children Act, 2001*, attends at the Garda Station in which the person is detained, or
 - (b) in the absence, or the exclusion under *Section 22(4)* or the removal under *Section 22(5)*, of a person referred to in (a) above, another adult, not being a member of An Garda Síochána, (and who by reason of his / her training / experience with children is suitable for the purpose) nominated by the member in charge of the Garda Station, is present while the sample is being taken, unless child indicates that he / she does not wish to have the person present.

- The taking of a non intimate sample by force shall be recorded by electronic or similar means.

- A non intimate sample shall not be taking using reasonable force from a protected person unless
 - (a) a parent / guardian or if appropriate an adult relative or other adult reasonably named by that person who, pursuant to *Section 58 of the Childrens Act, 2001*, *Section 32(2)* of this Act or otherwise, attends at the Garda Station in which the person is detained, or
 - (b) in the absence, or the exclusion under *Section 21(4)* or the removal under *Section 21(5)*, of a person referred to in (i) above, another adult, not being a member of An Garda Síochána, (and who by reason of his / her training / experience with persons who have physical / mental disabilities or both is suitable for the purpose) nominated by the member in charge of the Garda Station,is present while the sample is being taken, unless the protected person indicates that he / she does not wish to have the person present.

Section 13
[Taking of Non-Intimate Sample
for purposes of DNA Database
System]
(For Intelligence & Evidential
Purposes)

Inspector (or above)
authorises sample to
be taken

Authorisation only
given where member
of AGS has reasonable
grounds for suspecting
person has
involvement in offence
& belief that sample
will confirm or disprove
involvement

Sample taken may be
destroyed and the DNA
profile entered in the
Reference Index may
be removed

Results of forensic
testing may be given in
evidence in any
proceedings

If person refuses to
provide a sample
reasonable force under
section 24 may be
used to take the
sample

Where sample has
already been taken
and has proved to be
insufficient or
inadequately labelled
another sample may
be taken subject to
Section 3(6) and
Section 25(1)

Information provided to person
prior to non-intimate sample
being taken

Informed of the nature
of offence involved &
that authorisation has
been given

Sample taken will be
used to generate DNA
profile in the Reference
Index

Sample taken may be
transmitted or provided
to a person or body in
relation to the
investigation of criminal
offences or
proceedings

Sample may be
compared with
evidence taken from a
crime scene

Non-intimate sample
taken and DNA
profile in respect of
person is entered in
the **Reference
Index** of the DNA
Database System

Sections 21 & 23 - Taking of samples from protected persons

Legislation

Intimate samples may only be taken from a protected person where a person (other than a member of An Garda Síochána) is present while the sample is being taken unless the protected person indicates that he / she does not wish to have such a person present. This person may be the parent / guardian or other adult who attends at the Garda Station or another adult nominated by the member in charge as the case may be. The nominated adult must be a person who is, insofar as is practicable, of the same sex of the person from whom the sample is to be taken. A nominated person must, insofar as is practicable, be suitable by reason of his / her training or experience with persons who have physical / mental disabilities or with children as the case may be.

Non-intimate samples shall, if it is reasonably practicable to do so, be taken from a protected person in the presence of a parent or guardian of the person, or if appropriate, an adult relative or other adult reasonably named by that person who attends at the Garda Station unless the protected person indicates that he / she does not wish to have that person present.

Code of Practice

- Member in charge shall determine if person is a protected person (see *Section 10*).
- An intimate sample shall only be taken from a protected person if
 - (a) a parent / guardian of the person or an adult relative or other adult reasonably named by the person who attends at the Garda Station or
 - (b) in the absence / exclusion under (4) / removal under (5) of a person referred to at (a), another adult (not being a member of An Garda Síochána) nominated by the member in charge of the Garda Stationis present while the sample is being taken, unless the protected person indicates that he / she does not wish to have the person present. When nominating another adult, the member in charge shall, insofar as is practicable, nominate a person who
 - (a) is of the same sex as the protected person, and
 - (b) is suitable for the purpose by reason of his / her training or experience with persons with mental or physical disabilities.
- A non-intimate sample, insofar as it is reasonably practicable to do so, shall be taken from a protected person in the presence of a parent / guardian or an adult relative or other adult reasonably named by the person who attends at the Garda Station unless the protected person indicates that he / she does not wish to have that person present.

- The member in charge of the Garda Station may authorise the exclusion of a parent / guardian of a protected person or other adult relative or adult named by the protected person if

>> DNA Form 21(4) refers <<

- (a) the parent / guardian / other adult is the victim of the offence in relation to which the protected person is detained,
 - (b) the parent / guardian / other adult has been arrested in respect of that offence,
 - (c) the member in charge has reasonable grounds for suspecting the parent / guardian / other adult of complicity in that offence,
 - (d) the member in charge has reasonable grounds for believing that the parent / guardian / other adult is likely to obstruct the course of justice.
- The member in charge of the Garda Station may authorise the removal of a parent / guardian / other adult from the place where the sample concerned is to be, or is being, taken if he / she attempts without reasonable cause to obstruct the taking of the sample.

>> DNA Form 21(5) refers <<

- Before an intimate or non-intimate sample is taken from a protected person, the member taking the sample shall, if it is reasonably practicable to do so, inform the parent / guardian / other adult of the information that is required to be given to a person from whom a sample is being taken as provided for in *Section 12(5)* and *Section 13(5)*.

Persons other than a parent or guardian to support a protected person:

If a protected person's parent / guardian does not attend at the Garda Station to be present for the taking of an intimate or non-intimate sample or to receive the required information there is an obligation on the member in charge to inform the protected person that he / she is entitled to request that another adult attends.

Pursuant to *Section 23* if, in relation to the taking of an intimate or non-intimate sample from a protected person, the member in charge is

- (a) unable, having made reasonable efforts to do so, contact a parent / guardian or
- (b) the parent / guardian of the person indicates that he / she cannot or will not attend at the Garda Station within a reasonable time,

the member in charge shall inform the protected person, or cause him / her to be informed, of that fact without delay.

If the protected person does not have, or the member in charge cannot ascertain within a reasonable period (having made reasonable efforts to do so) if he / she has a living parent / guardian, the member in charge shall

- (a) inform the protected person / cause him or her to be informed without delay that he / she is entitled to have an adult relative or other adult reasonably named by him / her requested to attend the Station, and
- (b) cause the named person to be notified accordingly as soon as is practicable.

Section 22 – Taking of samples from children

Legislation

Intimate samples may only be taken from a child where a person (other than a member of An Garda Síochána) is present while the sample is being taken unless the child indicates that he / she does not wish to have such a person present. This person may be the parent / guardian or other adult who attends at the Garda Station pursuant to the Children Act 2001, or another adult nominated by the member in charge as the case may be. The nominated adult must be a person who is, insofar as is practicable, of the same sex of the person from whom the sample is to be taken. A nominated person must, insofar as is practicable, be suitable by reason of his / her training or experience with children.

Non-intimate samples and samples taken pursuant to *Section 11* (if over 14 years of age) shall, if it is reasonably practicable to do so, be taken from a child in the presence of a parent / guardian of the person, or if appropriate, another adult who, pursuant to the Children Act 2001, attends at the Garda Station in which the child is detained unless the child indicates that he / she does not wish to have that person present.

Code of Practice

- An intimate sample shall only be taken from a child if
 - (a) a parent / guardian of the child, or if appropriate, any other adult who, pursuant to the Children Act 2001, attends at the Garda Station in which the child is detained, or
 - (b) in the absence / exclusion / removal of a person referred to at (a) another adult (not being a member of An Garda Síochána) nominated by the member in charge of the Garda Station

is present while the sample is being taken, unless the child indicates that he / she does not wish to have that person present. When nominating another adult, the member in charge shall, insofar as is reasonably practicable, nominate a person who is of the same sex of the child and is suitable for the purpose by reason of his / her training or experience with children.

- A non-intimate sample or a sample taken pursuant to *Section 11*, insofar as it is reasonably practicable to do so, shall be taken from a child in the presence of a parent / guardian or other adult who, pursuant to the Children Act 2001, attends at the Garda Station unless the child indicates that he / she does not wish to have that person present.

- Before an intimate or non-intimate sample is taken from a child, the member taking the sample shall, if it is reasonably practicable to do so, inform the parent / guardian / other adult of the information that is required to be given to a person from whom a sample is being taken as provided for in *Section 11(3)*, *Section 12(5)* & *Section 13(5)*.
- The member in charge of the Garda Station may authorise the exclusion of a parent / guardian of a child or other adult (who attends the Station pursuant to the Children Act, 2001) if –

>> DNA Form 22(4) refers <<

- (a) the parent / guardian / other adult is the victim of the offence in relation to which the child is detained,
- (b) the parent / guardian / other adult has been arrested in respect of that offence,
- (c) the member in charge has reasonable grounds for suspecting the parent / guardian / other adult of complicity in that offence,
- (d) the member in charge has reasonable grounds for believing that the parent / guardian / other adult is likely to obstruct the course of justice.
- The member in charge of the Garda Station may authorise the removal of a parent / guardian / other adult from the place where the sample concerned is to be, or is being, taken if he / she attempts without reasonable cause to obstruct the taking of the sample.

>> DNA Form 22(5) refers <<

- Before a member takes a sample under *Section 11*, an intimate or a non-intimate sample from a child, the member shall, if it is reasonably practicable to do so, inform a parent / guardian / other adult who attends the Garda Station in which the child is detained, and is not excluded from the place where the sample is to be or is being taken of the information that is required to be given to a person from whom a sample is being taken as provided for in *Section 11(3)*, *Section 12(5)* & *Section 13(5)*. This shall not apply in relation to taking an intimate sample from a child if a parent / guardian has, pursuant to *Section 15(5)*, been informed of the matters referred to in *Section 12(5)*.

Section 20 - When a sample taken for the purposes of the reference index of the DNA Database System may also be used for evidential purposes

Legislation

In certain circumstances a sample that has been taken under *Section 11* (reference index purposes) may be treated and used as a sample taken under *Section 13* (non-intimate sample taken for forensic testing or evidential purposes), provided certain criteria are met. This may occur when a person has been detained for the investigation of a relevant offence under one of the following detention provisions-

- (a) *Section 30 of the Offences Against the State Act, 1939;*
- (b) *Section 4 of the Criminal Justice Act, 1984*
- (c) *Section 2 of the Criminal Justice (Drug Trafficking) Act, 1996;*
- (d) *Section 42 of the Criminal Justice Act, 1999;*
- (e) *Section 50 of the Criminal Justice Act, 2007;*
- (f) *Section 16 or 17 of the Criminal Procedure Act, 2010*

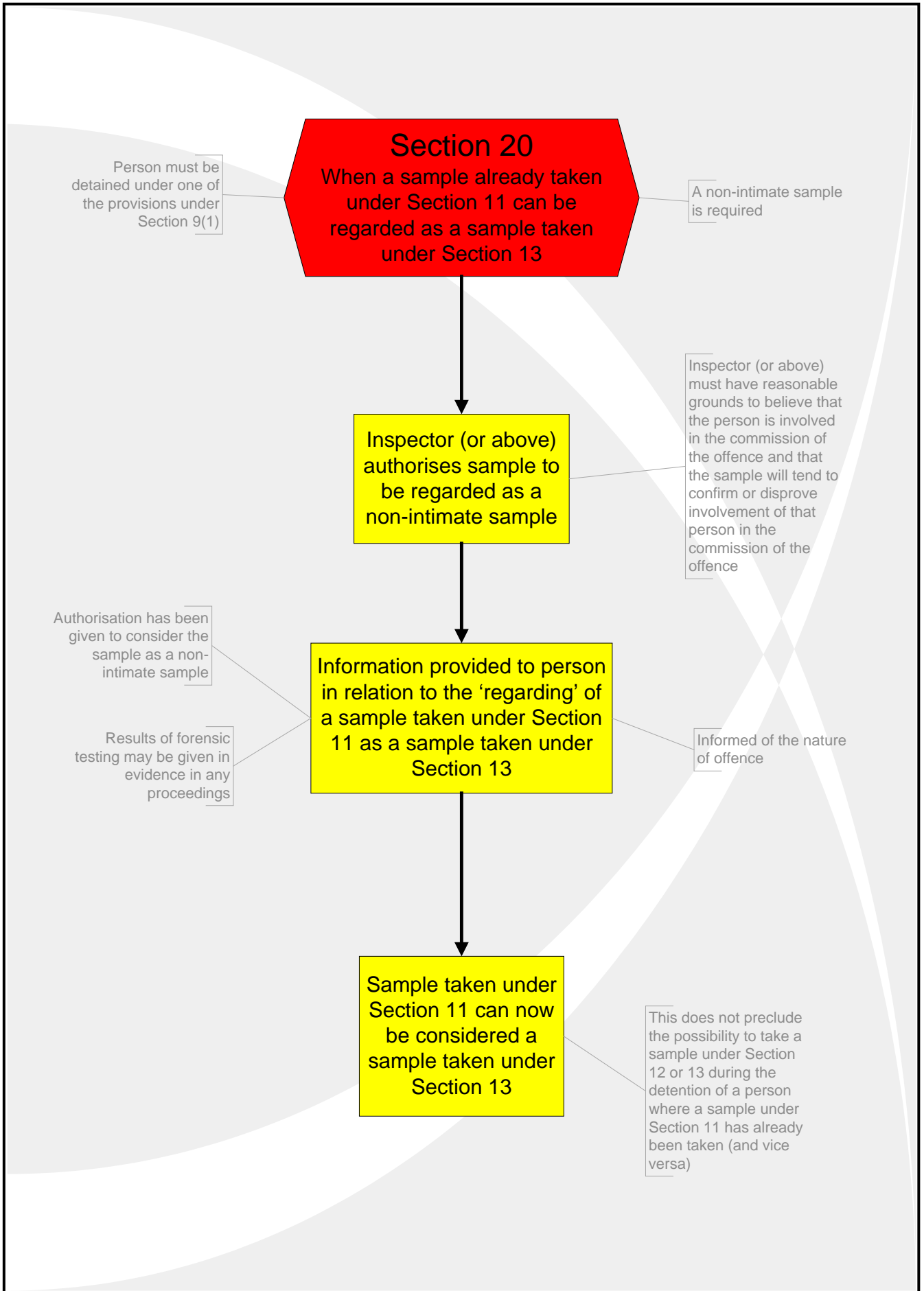
and subsequent to a sample being taken pursuant to *Section 11*, a non-intimate sample under *Section 13* is required during that same period of detention. In this Section periods of detention shall mean initial periods of detention as well as consecutive extensions of the periods of detention. Results obtained from the forensic testing of such a sample under this Section may be used as evidence.

The DNA profile generated from a *Section 11* sample that is regarded as a *Section 13* sample under this Section may also be included in the reference index of the DNA Database System as well as being used for forensic / evidential purposes.

Code of Practice

- Person detained for a relevant offence under one of the specified detention provisions.
- Sample is taken pursuant to *Section 11*.
- During same period of detention, a need arises for a non-intimate sample (one taken under *Section 13*).
- A member not below the rank of Inspector may authorise the initial sample taken under *Section 11* to be so regarded as a non-intimate sample that can be used for the purposes of forensic testing provided that the member has reasonable grounds –
>> **DNA Form 20(1)(i) refers** <<

- (a) for suspecting the involvement of the person from whom the *Section 11* sample was taken in the commission of the offence in which he / she is detained, and
 - (b) for believing that that sample will tend to confirm or disprove the involvement of that person in the commission of the offence concerned.
- The person from whom the sample has been taken must be informed
 - >> **DNA Information 20(1)(ii) refers <<**
 - (a) of the nature of the offence in the commission of which it is suspected that the person has been involved,
 - (b) of the authorisation to regard the initial sample (taken under *Section 11*) as a non-intimate sample has been given and the grounds upon which it has been given,
 - (c) that the results of the forensic testing of the sample may be given in evidence in any proceedings.



Section 25 – Re-taking of certain samples in certain circumstances

Legislation

Section 25 sets out the circumstances where a sample which has proved to be insufficient or inadequately labelled¹⁰ may be retaken.

In certain circumstances a sample may prove to be insufficient and the need to retake the sample arises. Insufficient in relation to a sample means that the sample is insufficient in quantity or quality for the purpose of enabling information to be produced from it by means of analysis or for it to be used for forensic testing. Different procedures apply depending on

- (a) whether the insufficiency becomes apparent while the person is still in detention or after he / she has been released and
- (b) the type of sample.

In the case of *Section 11, 12 & 13* samples, if an insufficiency becomes apparent within 1 hour of the sample being taken, authorisation to retake the sample shall not be necessary provided the person concerned is still in custody (see *Section 3*).

Reauthorisation under *Section 25* can only be given once during a period of detention.

Code of Practice

- Person detained for a period under the prescribed provisions pursuant to *Section 9*.
- If a sample taken during period of detention proves to be insufficient (*Section 11*) or is insufficient or inadequately labelled (*Section 12 & 13*), a second sample under *Section 11* or a second intimate or non intimate sample may be taken while the person is still detained only if an authorisation to take a second sample is given by the relevant rank pursuant to *Section 11(2), 12(2) (a) or 13(2)*.
- Authorisation by relevant rank (as specified in the Act) to retake sample may be given on one occasion only during a period of detention under the relevant provisions.
- An authorisation by relevant rank (as specified in the Act) to retake a sample shall not be necessary if it is apparent within one hour of the first sample being taken that that sample was insufficient / inadequately labelled. If a period of 1 hour has passed a new authorisation will be necessary.

>> DNA Forms 11(2), 12 (2) & 13(2) (second sample) refers

¹⁰ An **insufficient sample** may result from:

- (a) the loss, destruction or contamination of the whole or any part of the sample;
- (b) any damage to the whole or a part of the sample;
- (c) the use of the whole/part of the sample for analysis which produced results, some or all of which have to be regarded in the circumstances as unreliable.

Inadequately labelled means incorrectly labelled or labelled in such a manner that it is not possible to identify with certainty the person from whom the sample was taken.

- If a non-intimate sample is taken which proves to be insufficient / inadequately labelled and the person from whom the sample was taken has been released without charge, a second non-intimate sample may be taken from the person only if-
 - (a) a member of An Garda Síochána not below the rank of Superintendent authorises it and
 - (b) the person attends at a Garda Station for the purpose of having the second non-intimate sample taken from him / her.

>> DNA Form 25(3)(i) refers <<

- An authorisation shall not be given to take a second sample unless the member authorising it has reasonable grounds-
 - i. for suspecting the involvement of the person in the offence for which he / she was detained when the first sample was taken, and
 - ii. for believing that a second non-intimate sample will tend to confirm or disprove the involvement of that person in that offence.
- Having given authorisation to take a second sample, the authorising officer may require the person by notice in writing to attend at a specified Garda Station within one month from the date that the officer was informed of the fact that the first non-intimate sample concerned was insufficient / inadequately labelled. In the case of a child, the notice shall also be sent to the child's parent / guardian.
- The written notice to attend at a specified Garda Station shall give the person concerned a period of not less than 10 working days within which he / she shall attend and may direct that the person attend on a specified day, at a specified time / between specified times.

>> DNA Form 25(6) refers <<

- Failing / refusing to comply (without reasonable cause) with a notice to attend allows a member not below the rank of Superintendent to apply to a judge of the District Court for a warrant to arrest the person concerned and detain him / her in a Garda Station for the purposes of taking a second non-intimate sample. The detention period under this warrant shall not exceed four hours from the time of arrest and the person must be released from custody once the sample has been taken unless further detention is authorised beyond the provision of the Act.
- The second non-intimate sample is not required to be of the same biological material as the first sample.

**Part 3 - Taking of Samples
from Volunteers to
Generate DNA Profiles**

Section 27 – Taking of samples from volunteers to generate DNA profiles

Legislation

Under *Section 27* of the Act, members of An Garda Síochána may request a volunteer (a person other than a person to whom *Sections 11, 12, 13, 29, 31, or 32* applies) to have a sample taken from him / her for the purpose of generating a DNA profile in respect of the volunteer in relation to –

- (a) the investigation of a particular offence, or
- (b) the investigation of a particular incident that may have involved the commission of an offence.

A victim of the offence (or incident that may have involved the commission of the offence) being investigated may be considered a volunteer.

This section does not apply to persons in custody of An Garda Síochána or those to whom *Sections 31 & 32* apply (offenders and child offenders).

Code of practice

- Establish that the person concerned is a volunteer for the purposes of the Section i.e. that the person is not a person to whom *Sections 11, 12, 13, 29, 31 or 32* apply.
- Before seeking the consent of the volunteer to take a sample a member shall inform the volunteer –
 - (a) that he / she is not obliged to have a sample taken from him / her;
 - (b) in a case in which a sample already taken under *Section 27* has proven to be insufficient / inadequately labelled or that other reason (mentioned in *Section 30*) a second or further sample is required to be taken from him that -
 - i. the first sample has proved to be insufficient, was inadequately labelled or that other reason for requiring a second / further sample under this section to be taken as may be appropriate, and
 - ii. that a second or further sample is, in accordance with *Section 30*, to be taken from him / her;
 - (c) that the sample will be used to generate a DNA profile in respect of the volunteer for the purposes of the investigation of the offence / incident that may have involved the commission of an offence in relation to which it is being taken; and
 - (d) that the sample and DNA profile generated from the sample may be destroyed in accordance with *Part 10* of the Act.

In the case of a volunteer who is a protected person or child, he / she must be informed of the above, insofar as it is practicable to do so, in a manner and language

that is appropriate to the level of understanding of the person (in respect of protected persons) or appropriate to the age and level of understanding in respect of a child (see *Section 53*).

- A volunteer shall, before a sample is taken from him / her, consent in writing to the taking of the sample. The consent shall specify the particular offence / incident which may have involved the commission of an offence that is being investigated to which the consent relates.

>> DNA Form 27(4) refers <<

- Refusal to give consent shall not of itself constitute reasonable cause for a member to suspect the person of having committed the offence concerned for the purpose of arresting and detaining him / her under the provisions contained in *Section 9(1)* in connection with the investigation of that offence.
- If applicable, the provisions of *Section 28* should be adhered to when taking a sample from a volunteer.

Consent from Protected Persons / Children

- In relation to the consent of children and protected persons in *Section 27* and *Section 29*, the following shall apply under *Section 54* of the Act:
 - (a) Consent in the case of a child who has attained the age of 16 years shall be construed as the written consent of that child
 - (b) Consent in the case of a protected person or a child who has not attained the age of 16 years shall be construed as
 - i. in the case of a protected person the written consent of a parent / guardian;
 - ii. in the case of a child who has attained the age 14 years, the written consent of the child and a parent / guardian; and
 - iii. in the case of a child who has not attained the age of 14 years, the written consent of the parent / guardian.
- If consent of a parent / guardian of a protected person or a child (under 16 year) cannot be obtained¹¹, a grandparent or adult sibling of the protected person or child may give consent under this Section.

¹¹ 'Cannot be obtained' means

- (a) that, despite reasonable efforts, a member is unable to contact a parent/guardian or other relative of the protected person or child to ascertain if he/she consents to the taking of a sample
- (b) that the protected person/child does not have, or a member cannot reasonably ascertain (despite reasonable efforts) whether or not the protected person/child has a living parent/guardian or other relative from who consent may be sought.

- An Inspector may apply to a judge of the District Court for an order (under *Section 56*) to authorise the taking of a sample from a protected person or child if -
 - (a) written consent of a parent / guardian / grandparent / adult sibling of a protected person or child (under 16 years) cannot be obtained, and
 - (b) in the case of a child who is 14 or 15 years old, the child has consented to a sample being taken.
- Certain parents / guardians may be excluded from providing consent, namely that -
 - (a) the parent / guardian has been arrested in respect of the offence;
 - (b) a member not below the rank of Inspector has reasonable grounds for suspecting the parent / guardian to be complicit in the offence;
 - (c) a member not below the rank of Inspector has reasonable grounds for believing that the parent / guardian is likely to obstruct the course of justice.

In such cases, and when another parent / guardian is unavailable / inappropriate an application may be made pursuant to *Section 56* of the Act.

- A sample may be taken from a volunteer in a Garda Station or other place nominated by a member not below the rank of Sergeant or, subject to the agreement of the member taking the sample, at a place designated by the volunteer.
- If a volunteer expressly withdraws consent or if the withdrawal of that consent can be inferred from the persons conduct before or during the taking of the sample then that withdrawal will be treated as a refusal to give consent. In this case, such withdrawal shall be confirmed in writing as soon as is practicable.

>> DNA Form 27(8) refers

- In the case of a child who has attained the age of 16 years, withdrawal of consent shall be treated as such. In the case of a protected person or a child who has not attained the age of 16 years, withdrawal of consent shall be construed as:
 - (a) the withdrawal of consent by a parent / guardian / other applicable relative of the person in relation to a protected person, and
 - (b) the withdrawal of consent by both the child and parent / guardian / other applicable relative in relation to a child who has attained the age of 14 years, and
 - (c) the withdrawal of consent by the parent / guardian / other applicable relative in relation to a child who has not attained the age of 14 years.

Section 28 – Entry of DNA profiles of volunteers into the reference index of the DNA Database System

Legislation

The circumstances in which a DNA profile generated from a sample taken from a volunteer under *Section 27* can be entered in to the reference index of the DNA Database System are prescribed in *Section 28* of the Act. Such profiles shall not be entered into the DNA Database System routinely. Consent in writing must be obtained from the volunteer before a profile generated from a sample taken under *Section 27* is entered into the DNA Database System – consent which is separate to and independent of that consent given under *Section 27*. Please note that a protected person, a child or a person who is reasonably considered to be a victim may not consent to the entry of their DNA profile, generated from a sample taken under *Section 27*, onto the reference index of the DNA Database System.

Code of Practice

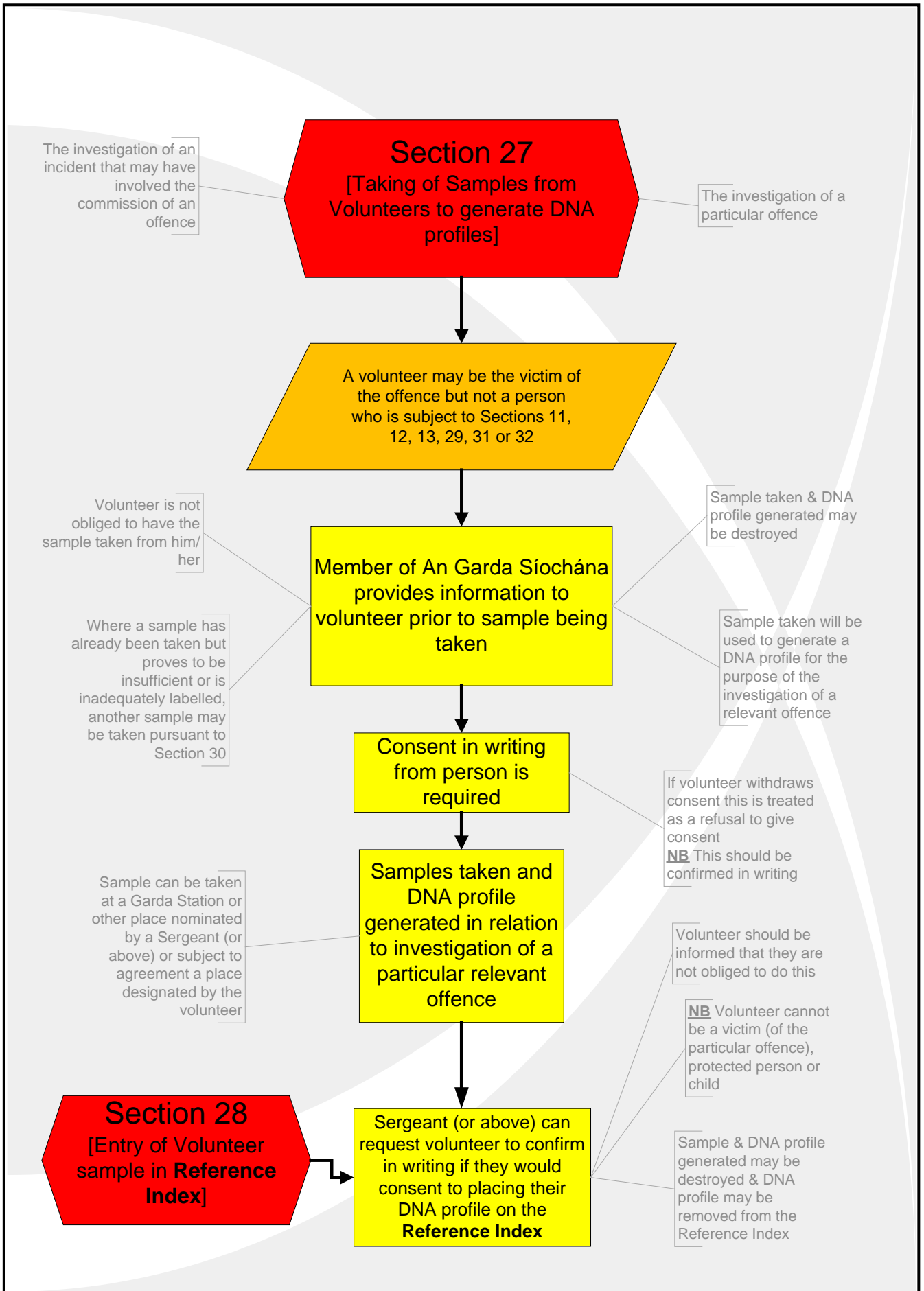
- Sample taken from volunteer pursuant to *Section 27*
- A member not below the rank of Sergeant may, at the time a sample is being taken under *Section 27*, or any time thereafter, inform a volunteer, other than a
 - (a) Protected person,
 - (b) Child,
 - (c) Victim / person reasonably considered to be a victim of the offence / incident being investigated,

that he / she may consent to the entry of his / her DNA profile generated from the sample in the reference index of the DNA Database System.

- A member of An Garda Síochána shall inform a volunteer of the following before his / her DNA profile is entered on the reference index of the DNA Database System:
 - (a) That the volunteer concerned is not obliged to consent to his / her DNA profile being entered in the reference index of the DNA Database System;
 - (b) The effect of the entry of the DNA profile in that index of that System¹²; and
 - (c) That the sample taken under *Section 27* from the volunteer concerned may be destroyed if not previously destroyed, and his / her DNA profile entered in the reference index of the DNA Database System may be removed from that System, in accordance with *Part 10* of the Act.

¹² **Effect of the entry of a DNA profile onto the reference index of the DNA Database System** – once a DNA profile is generated from a sample it shall be entered onto the reference index where it may be compared with the other DNA profiles entered in that index; the DNA profiles entered in the crime scene index, and; the DNA profiles entered in the missing and unknown persons index.

- Consent given by a volunteer referred to in this Section shall be in writing.
>> DNA Form 28(3) refers <<



Section 29 – Taking of samples for mass screening

Legislation

Section 29 sets out the circumstances in which a mass screening of a class of persons defined by certain characteristics may be carried out. A class of persons may include persons who share particular identifiers such as sex, age or geographic area in which the person resides or works e.g. all men over the age of 25 who attend the science faculty at UCD.

A mass screening may only be conducted for the purposes of the investigation of a particular relevant offence where it is believed that it is likely to further the investigation and it is a reasonable and proportionate measure to be taken in the investigation. A profile generated from a sample taken from a person under *Section 29* cannot be entered in to the reference index of the DNA Database System.

Code of Practice

- Authorisation granted by a member not below the rank of Chief Superintendent provided he / she has reasonable grounds for believing that, in relation to the investigation of a particular relevant offence, that mass screening
 - >> **DNA Form 29(2) refers <<**
 - (a) is likely to further the investigation of the offence, and
 - (b) is a reasonable and proportionate measure to be taken in the investigation of the offence
- Determining a class of persons for the purposes of mass screening shall be done by reference to one or more of the following:
 - (a) the sex of the person,
 - (b) the age of the person,
 - (c) the kinship of the person,
 - (d) a geographic area in which the persons reside / work,
 - (e) a period of time during which the persons did anything or were at any place,
 - (f) such other matter as the member giving the authorisation for mass screening considers appropriate.
- Before seeking consent to take a sample from a person pursuant to *Section 29*, a member must inform the person of the following:
 - (a) that an authorisation for mass screening has been given and that the person concerned is one of the class of persons to whom it applies;
 - (b) the purpose of the mass screening that has been authorised;
 - (c) that the person is not obliged to have the sample taken from him / her;

- (d) in a case in which a sample already taken under Section 29 has proven to be insufficient / inadequately labelled or that other reason (mentioned in Section 30) a second or further sample is required to be taken from him/her that -
 - i. the first sample has proved to be insufficient, was inadequately labelled or that other reason for requiring a second / further sample under this section to be taken as may be appropriate, and
 - ii. that a second or further sample is, in accordance with Section 30, to be taken from him / her;
- (e) that the sample will be used to generate a DNA profile in respect of the person for the purposes of the investigation of the particular relevant offence in relation to which the sample is being taken; and
- (f) that the sample and the DNA profile generated from the sample in respect of that person may be destroyed in accordance with Part 10 of the Act.
- Consent in writing must be obtained from the person from whom the sample is sought and the consent will refer to the authorisation for a mass screening concerned.

>> DNA Form 29(5) refers <<

- A sample may be taken pursuant to *Section 29* at a Garda Station or other place nominated by a member not below the rank of Sergeant, or subject to the agreement of the member taking the sample, at a place designated by the person from whom the sample is being taken.
- **>> DNA Form 29(9) refers <<**
- If a person expressly withdraws consent given (or withdrawal of that consent can reasonably be inferred from the conduct of the person) before or during the taking of a sample under *Section 29*, that withdrawal of consent shall be treated as refusal to give consent to the taking of the sample. Withdrawal of consent shall be confirmed in writing as soon as practicable after such withdrawal.
- A refusal of a person to give consent shall not of itself constitute reasonable cause for a member of An Garda Síochána to suspect the person of having committed the relevant offence concerned for the purpose of arresting and detaining him / her under any of the provisions referred to in Section 9(1) in connection with the investigation of the offence.
- In relation to the consent of children and protected persons in *Section 29* the following shall apply (pursuant to *Section 54* of the Act):
 - (a) Consent in the case of a child who has attained the age of 16 years shall be construed as the written consent of that child,
 - (b) Consent in the case of a protected person or a child who has not attained the age of 16 years shall be construed as

- i. in the case of a protected person, written consent of a parent / guardian;
- ii. in the case of a child who has attained the age 14 years, the written consent of the child and a parent / guardian; and
- iii. in the case of a child who has not attained the age of 14 years, the written consent of the parent / guardian.

If written consent of a parent / guardian of a protected person or child cannot be obtained¹³, a grandparent or brother / sister (who is an adult) of the protected person / child may give that consent.

If:

- (a) written consent of parent/guardian, grandparent, brother or sister of protected person/child cannot be obtained,
- (b) in the case of a child who has attained the age of 14 the child has consented,

an Inspector may apply to a judge of the District Court for an order (pursuant to Section 56 of the Act) to authorise the taking of that sample from the protected person or child.

Certain parents / guardians may be excluded from providing consent, namely if the parent / guardian has been arrested in respect of the offence; that a member not below the rank of Inspector has reasonable grounds for suspecting the parent / guardian to be complicit in the offence; that a member not below the rank of Inspector has reasonable grounds for believing that the parent / guardian is likely to obstruct the course of justice. In such cases, and when another parent / guardian is also excluded, an application may be made to a judge of District Court under section 56 for an order to authorise the taking of that sample from the protected person/child.

¹³ 'Cannot be obtained' means

- (c) that, despite reasonable efforts, a member is unable to contact a parent/guardian or other relative of the protected person or child to ascertain if he/she consents to the taking of a sample
- (d) that the protected person/child does not have, or a member cannot reasonably ascertain (despite reasonable efforts) whether or not the protected person/child has a living parent/guardian or other relative from whom consent may be sought.

Section 29 [Taking of Samples for Mass Screening]

Believes it to be reasonable and proportionate

Chief Superintendent (or above) authorises mass screening

Believes it is likely that this will further the investigation of the offence

- Sex of Persons
- Age of Persons
- Kinship of Persons
- Geographic Area persons reside or work in
- Other matters considered appropriate

Class of persons for mass screening determined

Sample taken & DNA profile generated may be destroyed

Person is not obliged to have the sample taken from him/her

Where a sample has already been taken but proves to be insufficient or was inadequately labelled, another sample may be taken pursuant to Section 30

Information provided to persons subject to mass screen prior to sample being taken

Informed that authorisation for mass screening has been given & purpose

Sample taken will be used to generate a DNA profile for the purpose of the investigation of a relevant offence

Consent in writing from person is required

If person withdraws consent this is treated as a refusal
NB This should be confirmed in writing

Sample can be taken at a Garda Station or other place nominated by a Sergeant (or above) or subject to agreement a place designated by the person

Samples taken and DNA profile generated in relation to investigation of a particular relevant offence

Section 30 - Re-taking of samples under Part 3 (Taking of Samples from Volunteers to Generate DNA Profiles)

Legislation

This Section relates to where a sample is taken from a person under *Section 27* (taking of samples from volunteers to generate DNA profiles) or *Section 29* (taking of samples for mass screening) and that sample proves to be insufficient or inadequately labelled or it is deemed necessary for a second or further sample to be taken, that another sample can be taken.

Code of Practice

Where a sample taken from a person under *Section 27* or *29* proves to be insufficient or was inadequately labelled or, for any other good reason, a member of An Garda Síochána considers that it is necessary for a second or further such sample to be taken from the person, a second or further sample may be taken from him or her in accordance with the section concerned.

**Part 4 - Taking of Samples
from Other Persons or
Bodies for the Reference
index of the DNA
Database System**

Section 31 - Taking of samples from offenders:

Legislation

Section 31 concerns the taking of samples for the purpose of generating a DNA profile from persons who, under the Act, are offenders (as defined in Definitions and Interpretations). The DNA profile generated will be entered in the reference index of the DNA Database System.

Pursuant to *Section 31* of the Act a member of An Garda Síochána may take such a sample from an offender in the following circumstances:

- (a) The offender in this Section has been convicted of a relevant offence before the commencement of this Section and where a sentence of imprisonment has been imposed by a court and:
 - i. the offender is currently serving the sentence in prison;
 - ii. the offender is on temporary release under Section 2 of the Criminal Justice Act 1960;
 - iii. the sentence is otherwise still in force or current.
- (b) The offender, either before or after the commencement of this Section, has been or is convicted of a relevant offence and after the commencement has been sentenced to imprisonment.
- (c) Before or after the time of the commencement of this Section the offender has been or is convicted outside the State of an offence (corresponding to a relevant offence) and is serving a sentence of imprisonment in the State for such offence in accordance with:
 - i. A warrant issued by the High Court under the Transfer of Sentenced Persons Act 1995; or
 - ii. An order of the High Court under the Transfer of Execution of Sentences Act 2005.
- (d) The offender may fall under (a), (b) or (c) and who on or after the commencement of this Section becomes subject to the requirements of Part 2 of the Sex Offenders Act 2001.

Code of Practice

A sample taken from an offender under this Section shall be used to generate a DNA profile in respect of the offender to be entered in the **reference index** of the DNA Database System.

A sample under this section shall be taken from an offender as soon as practicable after the commencement of this Section. It should be taken before the expiry of the sentence concerned or if he / she is a sex offender before the end of the notification period.

- Where a sample under this Section has not been taken in prison, a member of An Garda Síochána not below the rank of Inspector in the Garda District where the offender ordinarily resides may require the offender by notice in writing to attend at a specified Garda Station within a period specified:

>> DNA Form 31(9) refers <<

- (a) Not less than 10 working days;
- (b) May direct an offender to attend on specified days and at a specified time of day or between specified times of day.

An offender who fails or refuses, without reasonable cause, to comply with a notice under this Section shall be guilty of an offence and shall be liable on summary conviction to a class A fine or imprisonment for a term not exceeding 12 months or both.

- Authorisation to take a sample must be given by a member of An Garda Síochána not below the rank of Sergeant.

>> DNA Form 31(7) refers <<

- The offender must attend at a Garda Station for the purpose of having the sample taken from him or her.
- Before a sample is taken by a member from a person under Section 31 the member must inform the person of the following:

>> DNA Information 31(8) refers <<

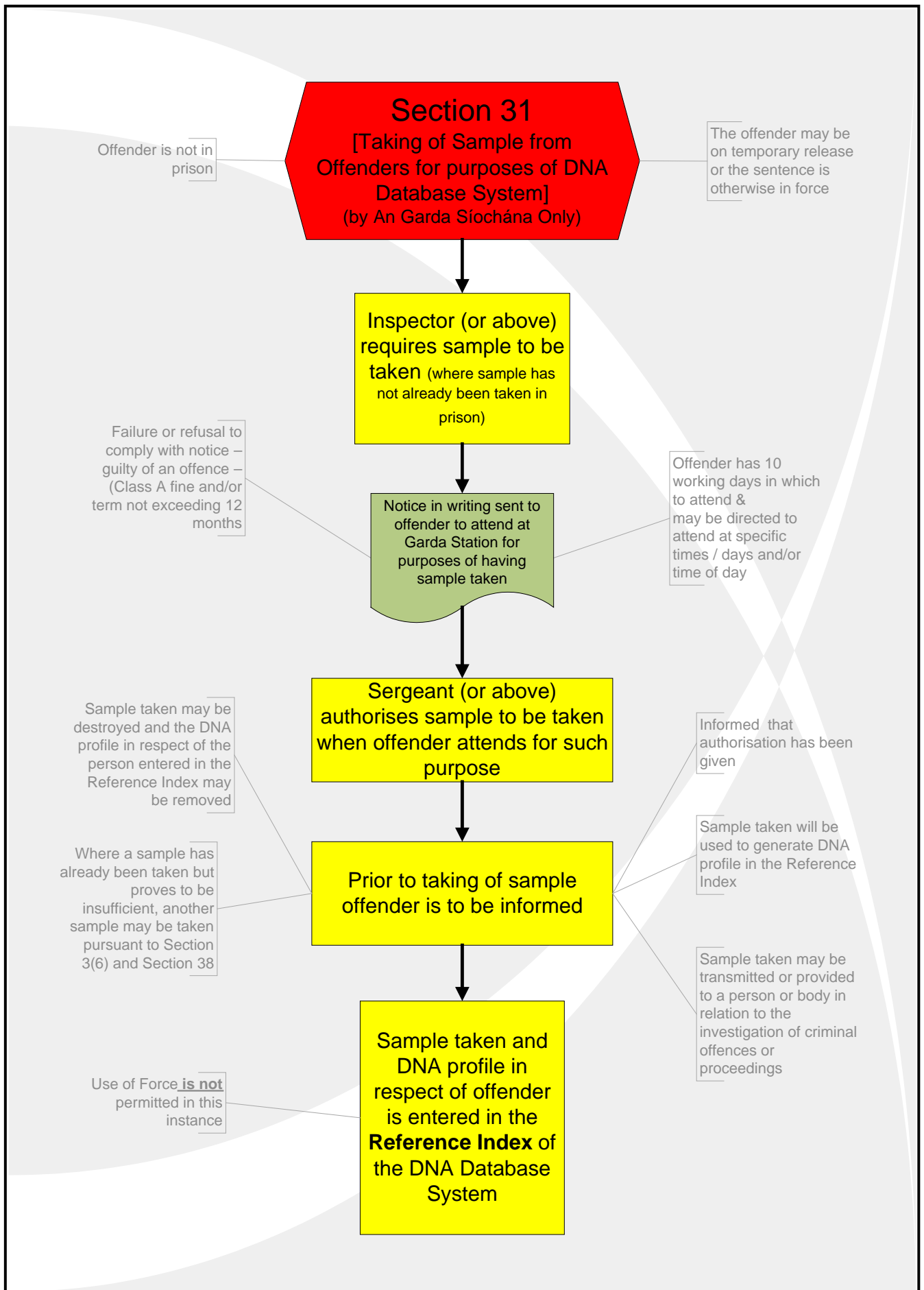
- (a) that an authorisation to take a sample has been given by a member not below the rank of Sergeant;
- (b) in a case in which a sample has already been taken under *Section 31* (or *Section 32* when the person concerned was a child offender) has proved to be insufficient¹⁴, another authorisation is not required under Section 3(6) or if appropriate, that an authorisation to take a second sample in accordance with Section 38(7)(a) has been given;

¹⁴ An **insufficient sample** may result from:

- (a) the loss, destruction or contamination of the whole or any part of the sample;
- (b) any damage to the whole or a part of the sample;
- (c) the use of the whole/part of the sample for analysis which produced results, some or all of which have to be regarded in the circumstances as unreliable

- (c) that the sample will be used to generate a DNA profile that will be entered into the reference index of the DNA Database system and the effect of that entry¹⁵;
 - (d) that the sample, or the DNA profile generated from it may be transmitted or provided to a person or body in connection with the investigation of criminal offences or criminal proceedings (whether within or outside the State) as provided for in the Act;
 - (e) that the sample may be destroyed, and the DNA profile entered in the reference index of the DNA Database System may be removed from that System in accordance with Part 10 of the Act.
- There is **no power to use reasonable force under this Section** where an offender fails or refuses to allow a sample to be taken from him / her by a member of An Garda Síochána.

¹⁵ **Effect of the entry of a DNA profile onto the reference index of the DNA Database System** – once a DNA profile is generated from a sample it shall be entered onto the reference index where it may be compared with the other DNA profiles entered in that index; the DNA profiles entered in the crime scene index, and the DNA profiles entered in the missing and unknown persons index.



Section 32 - Taking of samples from child offenders

Legislation

Section 32 concerns the taking of samples for the purpose of generating a DNA profile from persons who, under the Act, are child offenders (as defined in Definitions and Interpretations). The DNA profile generated will be entered in the reference index of the DNA Database System.

Pursuant to *Section 32* of the Act a member of An Garda Síochána may take a sample from a child offender who is not in a place of detention or detention school in such circumstances as:

- (a) The child offender has been convicted of a relevant offence before the commencement of this Section and where a sentence of detention has been imposed by a court at that commencement and:
 - i. the child offender is on a permitted absence from a children detention school or is temporarily released under *Section 2 of the Criminal Justice Act 1960*;
 - ii. the sentence is otherwise still in force or current;
- (b) the child offender, either before or after the commencement of this Section, has been or is convicted of a relevant offence for which a sentence of imprisonment has been imposed after the commencement of the Section;
- (c) before or after the time of the commencement of this Section the child offender has been or is convicted outside the State of an offence (corresponding to a relevant offence) and is serving a sentence of imprisonment in the State for such offence in accordance with:
 - i. A warrant issued by the High Court under the Transfer of Sentenced Persons Act 1995; or
 - ii. An order of the High Court under the Transfer of Execution of Sentences Act 2005 committing the child to Saint Patrick's Institution;
- (d) the child offender may fall under (a), (b) or (c) and who on or after the commencement of this Section becomes subject to the requirements of *Part 2* of the Sex Offenders Act 2001

Code of Practice

A sample taken from a child offender under this Section shall be used to generate a DNA profile in respect of the child offender to be entered in the **reference index** of the DNA Database System.

A sample under this section shall be taken from a child offender as soon as practicable after the commencement of this Section. It should be taken before the expiry of the sentence concerned or if he / she is a sex offender before the end of the notification period.

- Where a sample under this Section has not been taken in children's detention school or a place of detention, a member of An Garda Síochána not below the rank of Inspector in the Garda District where the child offender ordinarily resides may require the offender by notice in writing to attend at a specified Garda Station within a period specified:

>> DNA Form 32(9) refers <<

- (a) Not less than 10 working days;
- (b) May direct a child offender to attend on specified days and at a specified time of day or between specified times of day.

A notice under this Section shall also be sent to a parent or guardian of the child offender concerned.

A child offender who fails or refuses, without reasonable cause, to comply with a notice under this Section shall be guilty of an offence and shall be liable on summary conviction to a class C fine or detention for a term not exceeding 6 months of both.

- Authorisation to take a sample must be given by a member of An Garda Síochána not below the rank of Sergeant.

>> DNA Form 32(7) refers <<

- The child offender must attend at a Garda Station for the purpose of having the sample taken from him or her.
- Before a sample is taken, or is caused to be taken, by a member from a person under *Section 32* the member must inform the person of the following:

>> DNA Information 32(8) refers <<

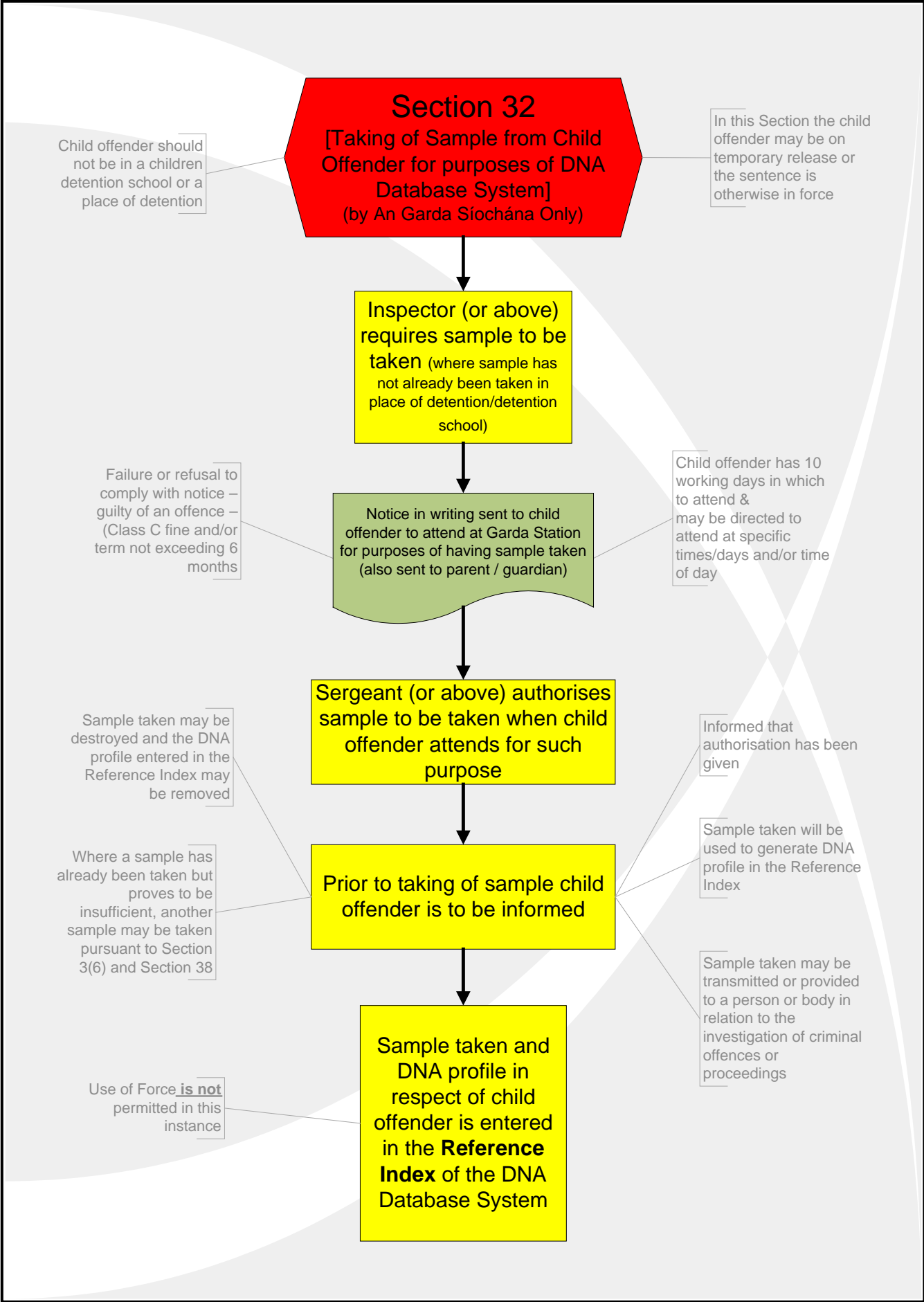
- (a) An authorisation to take a sample has been given by a member not below the rank of Sergeant;
- (b) In a case in which a sample has already been taken under this Section that the sample has proved to be insufficient¹⁶ and that another authorisation is not required pursuant to Section 3(6) or that an authorisation to take a second sample in accordance with Section 38(8)(a) has been given;

¹⁶ An **insufficient sample** may result from:

- (a) the loss, destruction or contamination of the whole or any part of the sample;
- (b) any damage to the whole or a part of the sample;
- (c) the use of the whole/part of the sample for analysis which produced results, some or all of which have to be regarded in the circumstances as unreliable.

- (c) That the sample will be used to generate a DNA profile that will be entered in the reference index of the DNA Database system and the effect of that entry¹⁷;
 - (d) That the sample, or the DNA profile generated from it may be transmitted or provided to a person or body in connection with the investigation of criminal offences or criminal proceedings (whether within or outside the State) as provided for in the Act;
 - (e) That the sample may be destroyed, and the DNA profile entered in the reference index of the DNA Database System may be removed from that System in accordance with *Part 10* of the Act.
- There is **no power to use reasonable force under this Section** where a child offender fails or refuses to allow a sample to be taken from him / her.

¹⁷ **Effect of the entry of a DNA profile in the reference index of the DNA Database System** – once a DNA profile is generated from a sample it shall be entered in the reference index where it may be compared with the other DNA profiles entered in that index; the DNA profiles entered in the crime scene index, and the DNA profiles entered in the missing and unknown persons index.



Section 33 & 34 - Former offenders and taking samples from former offenders

Legislation

Section 33 & 34 concern the taking of samples for the purpose of generating a DNA profile from persons who, under the Act, are former offenders (as defined in Definitions and Interpretations). The DNA profile generated will be entered in the reference index of the DNA Database System.

Under Sections 33 & 34 a former offender is a person who is no longer subject to a sentence for a relevant offence (or corresponding offence in the case of convictions from other jurisdictions), whom a member not below the rank of Superintendent believes a sample should be taken from in the interests of the protection of society and to assist An Garda Síochána in the investigation of offences.

Code of Practice

If a member of An Garda Síochána not below the rank of Superintendent is satisfied that:

- the person is a former offender, and
- it is in the interests of society, and it is desirable for the purpose of assisting An Garda Síochána in the investigation of offences to have a sample taken from the person.

The Superintendent may authorise the making of a request to have a sample under this section taken from him / her.

>> DNA Form 34(2) refers <<

- A member of An Garda Síochána who makes a request shall indicate to the person concerned that where a request has been made to provide a sample under this Section and there is a failure to comply, an application may be made to a judge of the District Court for an order to authorise the sending of a notice to him / her.
- Such notice will require him / her to attend at a named Garda Station on a day and at a time of day or between times of day as specified in the notice.
- This notice may be sent to the former offender by a member of An Garda Síochána.
- In the case of a child or where a member suspects that the former offender is a protected person, this notice should also be sent to the parent or guardian of the child / protected person.
- Before a sample is taken by a member from a former offender under Section 34, the member must inform the former offender of the following:

>> DNA Information 34(10) refers <<

- (a) an authorisation to take a sample has been given by a member not below the rank of Superintendent or a judge of the District Court has made an order authorising the sending of a notice requiring him / her to attend at a named Garda Station for the purpose of having a sample taken from him / her;
 - (b) in a case in which a sample has already been taken under this Section from the former offender, that the sample has proved to be insufficient¹⁸ and that a request has been made under Section 39(1) to take a second sample or that a judge of the District Court has made an order under Section 39(1) to take a second sample;
 - (c) That the sample will be used to generate a DNA profile in respect of the former offender and will be entered in the reference index of the DNA Database system and the effect of that entry¹⁹;
 - (d) That the sample, or the DNA profile generated from it in respect of the former offender may be transmitted or provided to a person or body in connection with the investigation of criminal offences or criminal proceedings (whether within or outside the State) as provided for in the Act;
 - (e) That the sample may be destroyed, and the DNA profile in respect of the person entered in the reference index of the DNA Database System may be removed from that System in accordance with Part 10 of the Act.
- A person who fails or refuses without reasonable cause to comply with a notice under this Section shall be guilty of an offence and shall be liable on summary conviction to:
 - (a) If the person is not a child - a Class A fine or imprisonment for a term not exceeding 12 months or both;
 - (b) If the person is a child – a Class C fine or detention for a term not exceeding 6 months of both.
 - There is **no power to use reasonable force under this Section** where a former offender fails or refuses to allow a sample to be taken from him / her.

¹⁸ An **insufficient sample** may result from:

- (a) the loss, destruction or contamination of the whole or any part of the sample;
- (b) any damage to the whole or a part of the sample;
- (c) the use of the whole/part of the sample for analysis which produced results, some or all of which have to be regarded in the circumstances as unreliable.

¹⁹ **Effect of the entry of a DNA profile in the reference index of the DNA Database System** – once a DNA profile is generated from a sample it shall be entered in the reference index where it may be compared with the other DNA profiles entered in that index; the DNA profiles entered in the crime scene index, and the DNA profiles entered in the missing and unknown persons index.

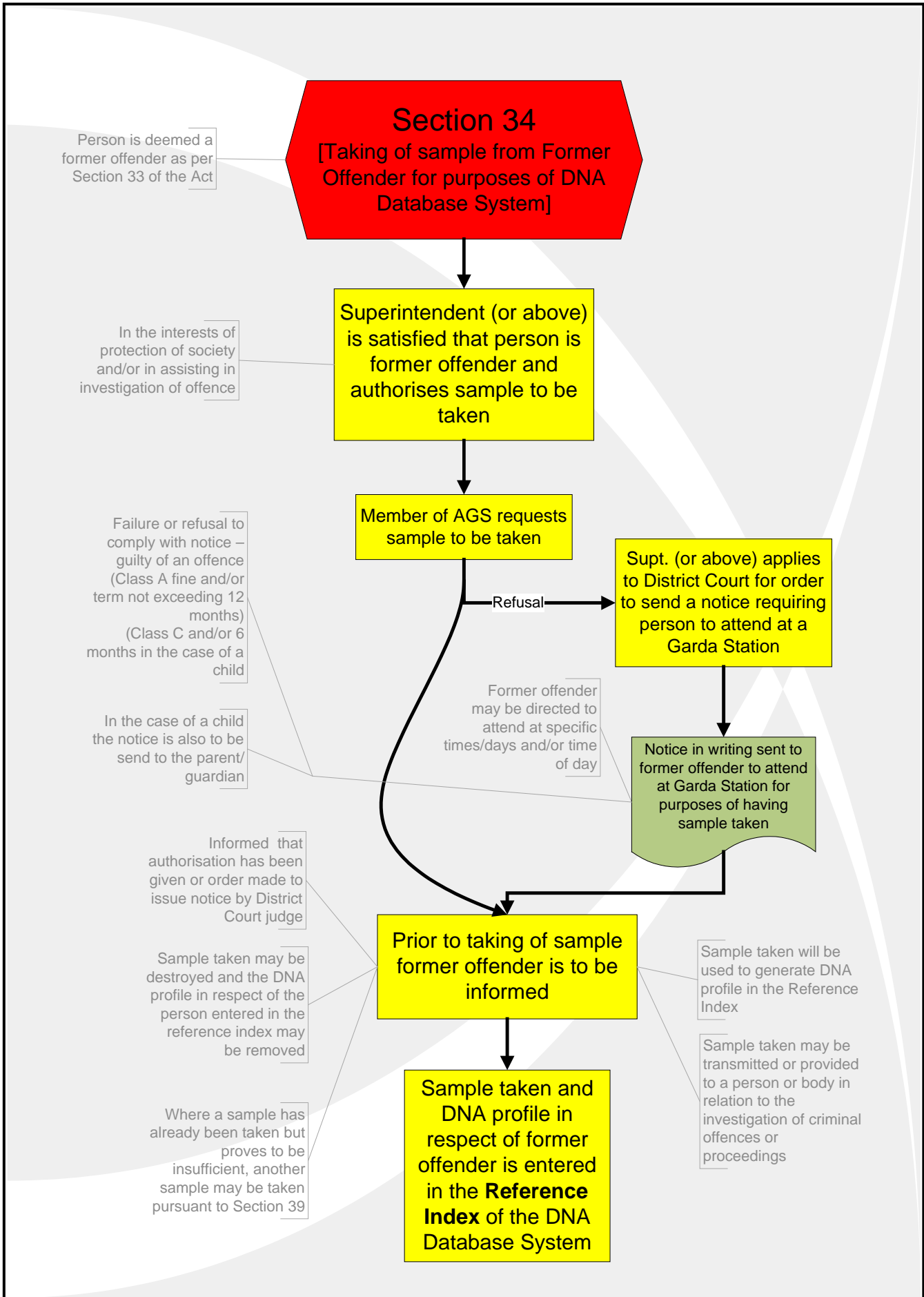
Ascertaining whether a person is a former offender:

A member of An Garda Síochána not below the rank of Superintendent can satisfy themselves that a person may be defined as a former offender and that it is appropriate for a sample to be taken under *Section 34* of the Act by:

- i. The number of relevant offences or sexual offences of which the person has been convicted;
- ii. The seriousness of the relevant offence or offences of which the person has been convicted;
- iii. the nature of the relevant offence or offences or sexual offence or offences of which the person has been convicted and whether evidence relating to DNA is likely to assist with the investigation or prosecution of such an offence or such offences;
- iv. the duration of the sentence or sentences of imprisonment or detention imposed on the person in respect of the relevant offence or offences or sexual offence or offences of which he or she has been convicted;
- v. the period that has elapsed since the expiry of the sentence for the relevant offence concerned or, if more than one such offence, the expiry of the sentence for the relevant offence that was the last to expire or, if the person was convicted of a sexual offence, the period that has elapsed since the end of the notification period or, if more than one such period, the end of the last one;
- vi. in relation to any offence of which the person was convicted when he or she was a child if the conviction is one to which this section applies, the age of the person at the time of such conviction;
- vii. any other matter that the member of the Garda Síochána or the judge, as the case may be, considers appropriate.

A person shall **not** be a former offender if –

- he / she is not ordinarily resident in the State or has his / her principle residence in the State;
- a period of 10 years has elapsed since the expiry of the last sentence for a relevant offence of which the person was convicted or, in the case of a sex offender, since the end of the last notification period to which he / she was subject.



Section 37: Giving of information under Part 4 to protected persons or children

Code of Practice

The information to be given under the following sections shall in the case of a protected person be given insofar as it is practicable to do so in a manner and in language that is appropriate to the level of understanding of the person:

- Section 31(8) – informing an offender of certain matters before the taking of a sample
- Section 32(8) - informing a child offender of certain matters before the taking of a sample.
- Section 34(10) - informing a former offender of certain matters before the taking of a sample.

The information to be given under the following sections shall in the case of a child be given insofar as it is practicable to do so in a manner and in language that is appropriate to the level of understanding of the child:

- Section 32(8) - informing a child offender of certain matters before the taking of a sample.
- Section 34(10) - informing a former offender of certain matters before the taking of a sample.

Section 38 - Re-taking of samples under Section 31 or 32 in certain circumstances

Legislation

Section 38 sets out the circumstances in which a sample taken under *Section 31* (offenders) or *Section 32* (child offenders) may be retaken in the event that the first sample proves to be insufficient²⁰.

Code of Practice

- Where an offender or child offender is not in prison or in a children detention school / place of detention respectively, a second sample may be taken from him / her under *Section 31* (for offender) or *Section 32* (for child offender) only if:
 1. a member of the Garda Síochána not below the rank of Inspector authorises it to be taken,
>> DNA Form 38(7) or 38(8) refers <<
 2. the offender / child offender attends at a Garda Síochána Station in accordance with this section for the purpose of having the second sample taken from him or her.
- An authorisation to take a second sample may be given on one occasion only and may not be given if a period of more than 6 months has elapsed since the first insufficient sample was taken.
- Once authorisation has been granted to retake the sample, a member may send, in writing, a notice requiring the offender / child offender to attend at a specified Garda Station. This notice shall state that the first sample was insufficient. The offender / child offender must be given a period of not less than 10 working days to attend the Station and he / she may also be directed to attend on specified days and at a specified time.
>> DNA Form 38(10) refers <<
- An offender / child offender who fails / refuses, without reasonable cause, to comply with the notice to attend a Garda Station under this Section shall be guilty of an offence and shall be liable on summary conviction –

²⁰ An **insufficient sample** may result from:

- (a) the loss, destruction or contamination of the whole or any part of the sample;
- (b) any damage to the whole or a part of the sample;
- (c) the use of the whole/part of the sample for analysis which produced results, some or all of which have to be regarded in the circumstances as unreliable.

- (a) in the case of an offender, to a class A fine or imprisonment for a term not exceeding 12 months or both, and
 - (b) in the case of a child offender, to a class C fine or detention for a period not exceeding 6 months or both.
- A second sample taken under this Section need not be of the same biological material as the first insufficient sample.

Section 39 - Re-taking of samples from former offenders

Legislation

Section 39 sets out the circumstances in which a sample taken under *Section 34* (former offenders) may be retaken in the event that the first sample proves to be insufficient.²¹

Code of Practice

- Where a sample taken from a former offender under *Section 34* proves to be insufficient, a member of the Garda Síochána may, within a period of not more than **6 months** from the taking of the sample, request him or her to have a second sample under that section taken from him or her.
- A member of An Garda Síochána who makes such a request shall indicate to the former offender that if he / she does not comply with the request an application may be made to a District Court judge to authorise the sending of a notice under Section 39(4) to him / her;
- A request for an order authorising such a notice can be made by a member of An Garda Síochána not below the rank of Superintendent to a judge of the District Court – this order may be made on one occasion only.
- Such notice will require him / her to attend at a named Garda Station on a day and at a time of day or between times of day as specified in the notice for the purposes of having a second sample under Section 34 taken from him / her.

>> DNA Form 39(4) refers <<

- Notices sent following such an order may be sent by a member of An Garda Síochána to the former offender concerned.
- Where the former offender is a child, or the member of An Garda Síochána sending the notice believes the former offender to be a protected person, a notice sent following an order made under Section 39(4) should also be sent to a parent or guardian of the child / protected person.
- A person who fails or refuses, without reasonable cause, to comply with a notice under this Section shall be guilty of an offence and shall be liable on summary conviction –
 - (a) if the person is not a child, to a class A fine or imprisonment for a term not exceeding 12 months or both, and

²¹ An **insufficient sample** may result from:

- (a) the loss, destruction or contamination of the whole or any part of the sample;
- (b) any damage to the whole or a part of the sample;
- (c) the use of the whole/part of the sample for analysis which produced results, some or all of which have to be regarded in the circumstances as unreliable.

(b) if the person is a child, to a class C fine or detention for a period not exceeding 6 months or both.

Section 35 - Taking samples from deceased persons suspected of commission of relevant offence

Legislation

Section 35 allows a sample to be taken from the body of a deceased person for the purposes of generating a DNA profile in respect of the deceased person to be entered in the reference index of the DNA Database System. Samples taken under this section shall be taken by a registered medical practitioner.

Nothing in this section shall authorise the exhumation of the body of a deceased person.

Code of Practice

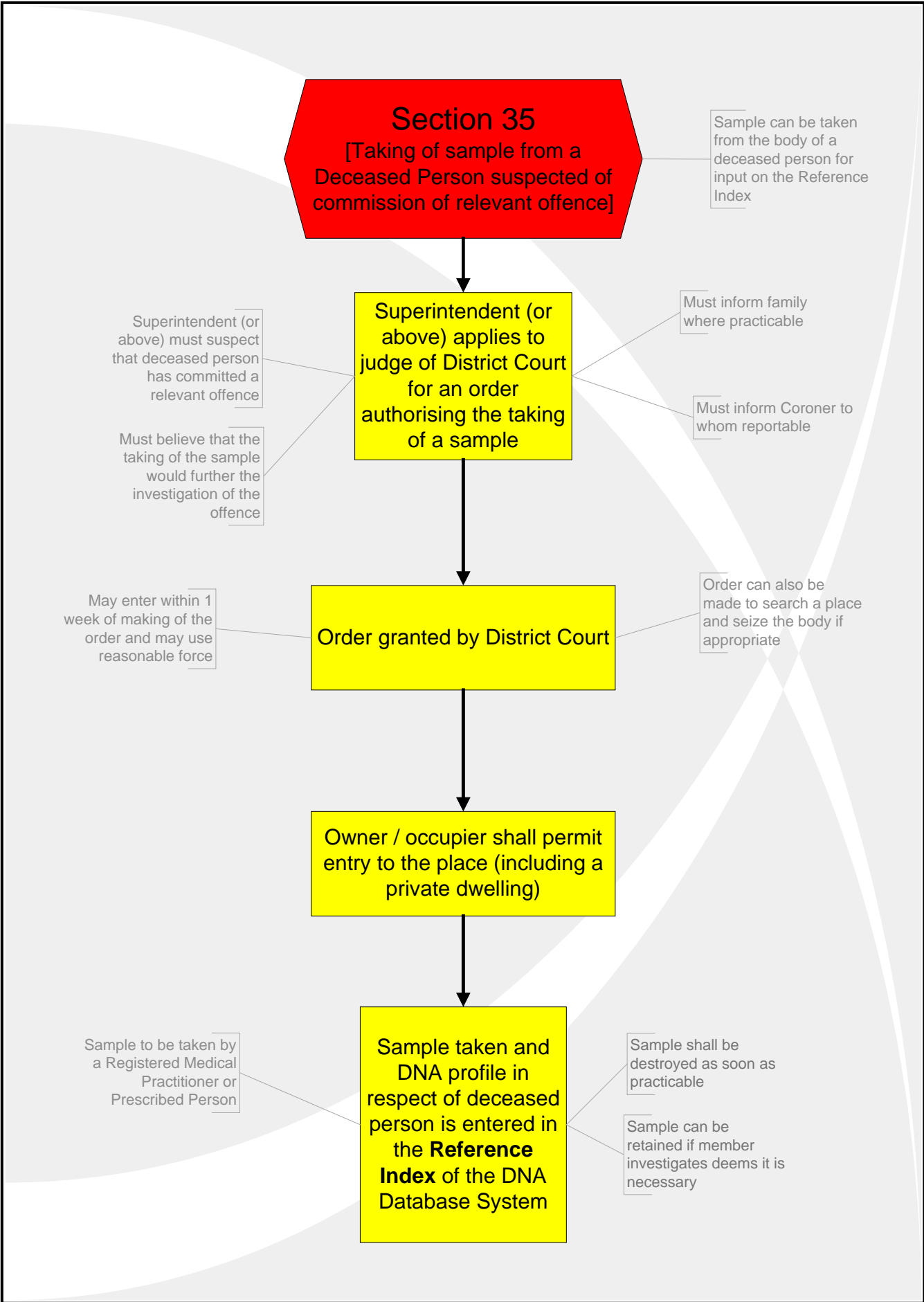
If a member of An Garda Síochána not below the rank of Superintendent has reasonable grounds for suspecting that a person who has died has committed a relevant offence and that the taking of a sample from the body of that person (for entry in the reference index of the DNA Database System) would further the investigation of the relevant offence concerned he / she may:

- Apply to a judge of the District Court for an order to take such sample. The order authorises An Garda Síochána to take a sample from the body of the deceased person. The owner or occupier of the place in which the body is located shall permit entry to the place for the purposes of having a sample taken.
- In addition a judge of the District Court may also make an order (on application by a member of An Garda Síochána not below the rank of Superintendent) which:
 - i. authorises the entry and search of a place (including a dwelling) where it is believed that the body of the person concerned is located, and
 - ii. if appropriate, authorises the seizure of the body of that person.

In these cases a named member of An Garda Síochána accompanied by other members or other persons or both as the member thinks necessary can:

- i. Enter at any time or times within one week of the date of the making of the order, on production of the order if so requested, and may use reasonable force.
 - ii. Search the place to locate the body and if appropriate seize the body.
- A member of An Garda Síochána who intends on making such application for an order should also:

- i. inform insofar as is practical, the family of the deceased person (provided that the member is of the opinion that there is no risk of prejudice to the investigation of the relevant offence),
 - ii. where the death is reportable to the coroner under the Coroners Act 1962, inform the coroner to whom it is reportable.
- If the death is reportable to a coroner under the Coroners Act 1962, the coroner shall facilitate An Garda Síochána regarding the taking of a sample.
 - A registered medical practitioner (or other person prescribed for that purpose) will take a sample from the body of a deceased person under this Section.
 - If the member of the Garda Síochána in charge of the investigation of the relevant offence of which the deceased person concerned is suspected is satisfied that the sample and the DNA profile in respect of that deceased person should not be destroyed, the sample and the DNA profile may be retained for the purposes of that investigation for such period as he or she considers appropriate.



Part 5 - Elimination Samples

Section 41 – Taking of Samples from Garda Síochána personnel for elimination (Garda Síochána) index

Legislation

Section 41 provides for the taking of samples from members / trainee members and trainee reserves for the purposes of the elimination (Garda Síochána) index of the DNA Database System. The profiles generated from these samples will only be used in relation to the investigation of offences in order to ascertain if the member has contaminated a crime scene.

The section distinguishes between existing Garda personnel and Garda personnel who are admitted to training / appointed after the commencement of this Section. Personnel who are appointed / admitted as such after the commencement of this Section shall be required to provide a sample in order to generate a DNA profile to be entered in the elimination (Garda Síochána) index of the DNA Database System. Before a sample is taken from existing personnel, i.e. those already appointed / admitted upon the commencement of this Section, written consent is required.

Code of Practice

- Member concerned is identified as existing personnel (upon commencement of this Section) - or as personnel appointed / admitted as such upon commencement of this Section.
- If applicable, obtain written consent from member.

>> DNA Form 41(3) refers <<

- Member / authorised person taking the sample shall inform the person concerned of the following before the sample is taken as per Section 41(4) –
 - i. that the sample is to be taken from him / her under Section 41;
 - ii. that if the sample is insufficient or inadequately labelled or if the Commissioner deems it necessary (as per Section 47), a second or further sample can be taken;

- iii. that the sample will be used to generate a DNA profile that will be entered in the elimination (Garda Síochána) index of the DNA Database System and the effect of that entry²²;
 - iv. that if the person concerned is, at any time after the taking of the sample, assigned to duties relating to the investigation / technical examination of crime scenes or items recovered from crime scenes, the DNA profile generated from the sample will be transferred from the elimination (Garda Síochána) index to the elimination (crime scene investigators) index;
 - v. that, in the case of trainee members (including trainee reserves), if the person concerned is appointed as a member of An Garda Síochána, the DNA profile will remain in the elimination (Garda Síochána) index;
 - vi. that the sample may be destroyed and that the DNA profile that has been entered in to the elimination (Garda Síochána) index or elimination (crime scene investigators) index may be destroyed in accordance with Part 10 of the Act.
- If a sample was taken from existing personnel prior to the commencement of this Section in relation to the investigation of a crime to ascertain if that person contaminated a crime scene, any DNA profile generated from it may be regarded as if it were a profile obtained under this Section. This can only happen if –

>> DNA Form 41(6) refers <<

- i. the person concerned consents in writing and,
 - ii. before consent is obtained the person concerned shall be informed of the necessary information as per *Section 41(4)* (see above).
- A profile generated from a sample taken under the provisions of *Section 41* shall be transferred to the elimination (crime scene investigators) index if, after the sample is taken, the person concerned is assigned to duties relating to the investigation / technical examination of crimes scenes or anything found at or recovered from crime scenes.

²² **Effect of the entry of a DNA profile in the elimination (Garda Síochána) index of the DNA Database System** – once a DNA profile is generated from a sample it shall be entered in the elimination (Garda Síochána) index where it may be compared with the other DNA profiles entered in that index and the DNA profiles entered in the crime scene index,.

Section 42 – Taking of Samples from Garda Síochána personnel for elimination (crime scene investigators) index

Legislation

Section 42 provides for the taking of samples from members / trainee members / reserve members, civilians for the purposes of the elimination (crime scene investigators) index of the DNA Database System. The members / trainee members / reserve members and civilians to whom this Section applies are those assigned to duties involving the investigation / technical examination of a crime scene or anything found / recovered from a crime scene. The profiles generated from these samples will only be used in relation to the investigation of offences in order to ascertain if the member has contaminated a crime scene.

The section is similar to *Section 41* in that it distinguishes between existing personnel and personnel who are admitted to training / appointed after the commencement of this Section. However *Section 42* relates solely to those involved in crime scene investigation and includes both members of An Garda Síochána and civilians who are engaged in such a role. Personnel who are appointed / admitted as such after the commencement of this Section shall be required to provide a sample in order to generate a DNA profile to be entered in the elimination (crime scene investigation) index of the DNA Database System. Before a sample is taken from existing personnel i.e. those already appointed / admitted upon the commencement of this Section, written consent is required.

Code of Practice

- Member concerned is identified as existing personnel (upon commencement of this Section) - or as personnel appointed / admitted as such upon commencement of this Section.
- If applicable, obtain written consent from member.

>> DNA Form 42(3) refers <<

- Member / authorised person taking the sample shall inform the person concerned of the following before the sample is taken as per *Section 42(4)* –
 - i. that the sample is to be taken from him / her under *Section 42*;
 - ii. that if the sample is insufficient or inadequately labelled or if the Commissioner deems it necessary (as per *Section 47*), a second or further sample can be taken;

- iii. that the sample will be used to generate a DNA profile that will be entered in the elimination (crime scene investigators) index of the DNA Database System and the effect of that entry²³;
 - iv. that if the person concerned is, at any time after the taking of the sample, no longer assigned to duties relating to the investigation / technical examination of crime scenes or items recovered from crime scenes, the DNA profile generated from the sample will be transferred from the elimination (crime scene investigators) index to the elimination (Garda Síochána) index;
 - v. that, in the case of trainee members (including trainee reserves), if the person concerned is appointed as a member of An Garda Síochána, the DNA profile will remain in the elimination (crime scene investigators) index;
 - vi. that the sample may be destroyed and that the DNA profile that has been entered in the elimination (Garda Síochána) index or elimination (crime scene investigators) index may be destroyed in accordance with *Part 10* of the Act.
- If a sample was taken from existing personnel prior to the commencement of this Section in relation to the investigation of a crime to ascertain if that person contaminated a crime scene, any DNA profile generated from it may be regarded as if it were a profile obtained under this Section. This can only happen if –

>> DNA Form 42(6) refers <<

- i. the person concerned consents in writing and,
 - ii. before consent is obtained the person concerned shall be informed of the necessary information as per Section 42(4) (see above).
- A profile generated from a sample taken under the provisions of Section 42 shall be transferred to the elimination (Garda Síochána) index if, after the sample is taken, the person concerned is no longer assigned to duties relating to the investigation / technical examination of crimes scenes or anything found at or recovered from crime scenes.

²³ **Effect of the entry of a DNA profile in the elimination (crime scene investigators) index of the DNA Database System** – once a DNA profile is generated from a sample it shall be entered in the elimination (crime scene investigators) index where it may be compared with the other DNA profiles entered in that index and the DNA profiles entered in the crime scene index.

Section 45 – Direction from the Commissioner for a sample to be taken for elimination purposes

Legislation

Under *Section 45* of the Act, the Commissioner may direct certain persons to provide a sample in relation to the investigation of a particular offence to ascertain if that person has contaminated a crime scene sample.

A direction may be given by the Commissioner in this regard to

- (a) a member / trainee member or reserve member including those involved in crime scene investigation (other than those who are required to give a sample under *Sections 41(2)* and *43(2)* of the Act), and
- (b) a member of civilian staff of An Garda Síochána (other than those to whom *Section 42(2)* applies).

In other words, the Commissioner may direct those persons who are not statutorily required to provide a sample under the Act (i.e. those who may provide a sample with consent) if he / she has good reason to believe that the person has contaminated a crime scene.

Code of Practice

- Any direction given by the Commissioner under *Section 45* shall be in writing, a copy of which shall be given to the person to whom it relates.

- When taking a sample that has been directed under *Section 45*, the member or authorised person taking it shall inform the person concerned of the following:
 - (a) that the sample is being taken pursuant to a direction from the Commissioner;
 - (b) in the case in which a sample has already been taken under *Section 45* proved to be insufficient / inadequately labelled, that this is the case and that a second or further sample may be taken in accordance with *Section 47(1)*;
 - (c) that the sample will be used to generate a DNA profile for the purpose of ascertaining whether he / she has contaminated the crime scene sample concerned; and
 - (d) that the sample and DNA profile may be destroyed in accordance with Part 10 of the Act.

**Part 6 - Samples from
Persons / Bodies for the
Purposes of the
Identification Division of
the DNA Database System**

Section 48 – Taking of samples in relation to missing persons

Legislation

This section of the Act concerns missing persons, whether or not they went missing before or after the commencement of this Section. For the purposes of the Act, a missing person means a person who is observed to be missing from his / her normal patterns of life, in relation to whom those persons who are likely to have heard from the person are unaware of the whereabouts of the person and that the circumstances of the person being missing raises concerns for his / her safety and well being.

A sample may be taken from the missing person's clothing / belongings and from his / her blood relatives for the purposes of generating a DNA profile to be entered in the missing and unknown persons index of the DNA Database System, to assist with finding / identifying the missing person. The taking of a sample under this Section shall not affect the exercise of any powers of An Garda Síochána in relation to the investigation of offences.

Code of Practice

- Sample may be taken in the investigation of the disappearance of a missing person if
 - (a) a member not below the rank of Inspector is satisfied that the circumstances of the disappearance require it, or
 - (b) following a natural or other disaster, one or more persons are missing.

Authorisation to take a sample in accordance with the above must be given by an Inspector, who must believe that the entry of the DNA profile generated will assist in the investigation.

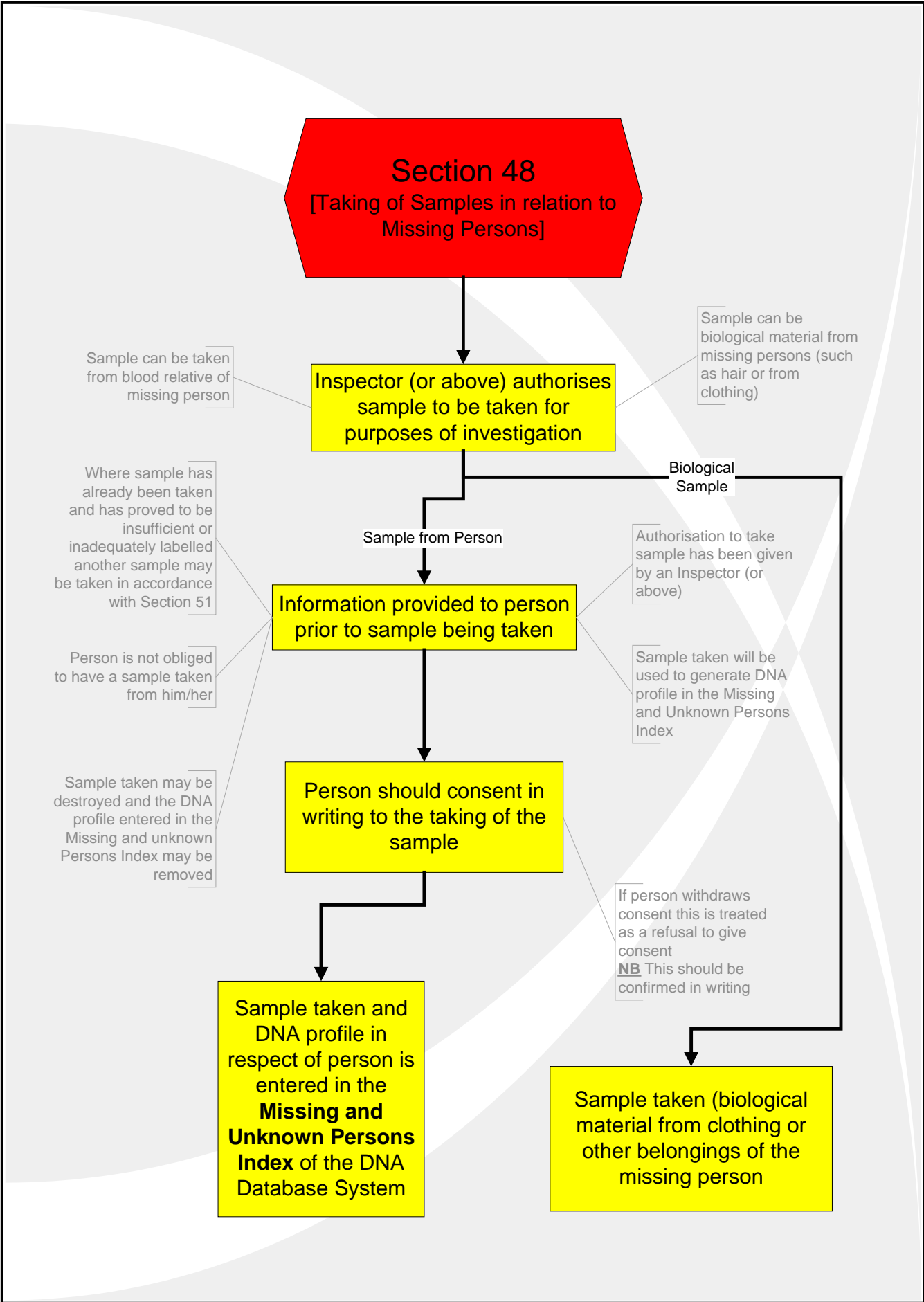
>> DNA Form 48(3) refers <<

- A sample of biological material from which a DNA profile may be generated may be taken from the clothing / belongings of the person or from things reasonably believed to belong to, or have been used by, the person or with which the person was reasonably believed to have been in contact.
- Before a sample is taken from a blood relative of a missing person, his / her written consent must be obtained – this consent shall specify the name of the missing person.

>> DNA Form 48(7) refers <<

- A sample taken from a blood relative must be either
 - (a) a mouth swab using the DNA Sampling Kit, or
 - (b) a sample of hair plucked from the head

- Before a sample is taken from a blood relative of a missing person, a member shall inform the person of the following:
 - (a) that an authorisation has been given;
 - (b) that the person is not obliged to have a sample taken;
 - (c) that if a sample has already been taken and it proves to be insufficient / inadequate that a second / further sample may be taken;
 - (d) that the sample will be used to generate a DNA profile which will be entered into the missing and unknown persons index of the DNA Database System;
 - (e) that the sample may be destroyed and the DNA profile removed from the DNA Database System.
- If a person withdraws his / her consent (or withdrawal of consent can be reasonably inferred from the persons conduct), the withdrawal shall be treated as a refusal to give consent. Withdrawal of consent must be recorded in writing.
>> DNA Form 48(10) refers <<
- If a sample taken is found to be insufficient / inadequate or if a member considers it necessary, a second or further sample may be taken from the person.



Section 49 – Taking of samples from unknown persons

Legislation

A sample may be taken from a person who is seriously ill / severely injured for the purposes of establishing the identity of that person. The taking of a sample under this Section shall not affect the exercise of any powers of An Garda Síochána in relation to the investigation of offences.

Any of the following may make the application to the High Court for authorisation allowing the Commissioner to cause a sample to be taken:

- (a) the Health Service Executive;
- (b) owner / manager of a hospital / nursing home in which the person concerned is receiving care;
- (c) the Commissioner of An Garda Síochána.

In the case of (a) and (b), an application to the High Court may only be made following consultation with a member not below the rank of Inspector.

Code of Practice

- Application to High Court can only be made if:
 - (a) a registered medical practitioner certifies in writing that the unknown person is suffering from a severe illness / has sustained serious injury and cannot identify himself / herself and that this is likely to continue for a prolonged period, and
 - (b) the unknown person (other than a child / protected person) has been consulted about the application and he / she does not object to the application being made.
- Application made by Commissioner – no consultation with Inspector required
- Application made by HSE or hospital / nursing home owner or manager – consultation with member of Inspector rank or above required.
- If authorisation is granted by the High Court the sample shall only be taken by a registered medical practitioner, registered nurse or other person prescribed.
- If a sample taken is found to be insufficient / inadequate or if a member considers it necessary, a second or further sample may be taken from the unknown person. The original order of the High Court shall be regarded as authorising the re-taking of a sample.

Section 49
[Taking of Samples in relation to
Unknown Persons]
(Sample to be placed in the Missing
and Unknown Persons Index)

Provided a registered medical practitioner examines the unknown person and certifies in writing that the person is suffering from serious injury or illness and is unable to identify himself/herself and that the inability is likely to endure

Application to the High Court for sample to be taken made by HSE or owner/manager of hospital/nursing home or Commissioner

Applications by the HSE or owner/manager of hospital or nursing home shall be made following consultation with Inspector (or above)

High Court must consider: the evidence of a registered medical practitioner; that the taking of the sample will assist in the identification of the unknown person; if appropriate the unknown person does not object to the taking of the sample

High Court authorises Commissioner to cause a sample to be taken

Sample to be taken by a registered medical practitioner, a registered nurse or other prescribed person and to be entered on the **Missing and Unknown Persons Index**

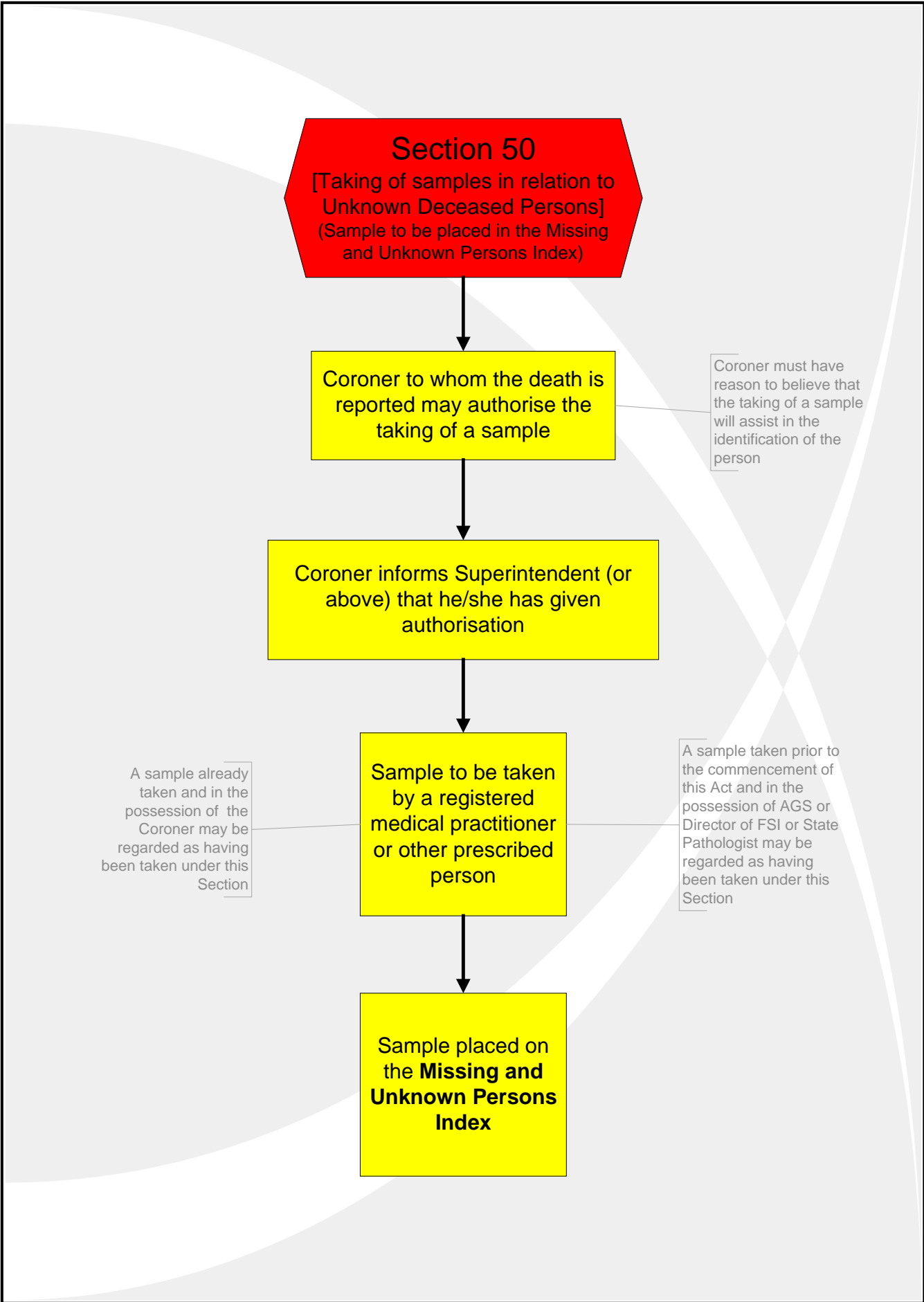
Section 50 – taking of samples from bodies of unknown deceased persons

Legislation

A sample may be taken from the body of a deceased person who has not been identified for the purpose of generating a DNA profile to be entered in the missing and unknown persons index of the DNA Database System to assist in identifying that person. The taking of a sample under this Section shall not affect the exercise of any powers of An Garda Síochána in relation to the investigation of offences / investigation into the death of a deceased person.

Code of Practice

- Death of unknown person is reported to the coroner (under the Coroners Act, 1962) – coroner may authorise the taking of a sample from the unknown deceased person. Coroner must be satisfied that this will assist in identifying the person concerned.
- Coroner shall, having granted authorisation to take a sample, notify a member not below the rank of Superintendent in the Garda district in which the death occurred / body of the person was discovered that an authorisation has been given to take a sample.
- Sample shall be taken by a registered medical practitioner or other person prescribed.
- A sample already taken from the body that is in the possession of the coroner may be regarded as a sample taken under *Section 50*.
- A sample taken from the body of a deceased person before the commencement of this Section that is in possession of An Garda Síochána, Director of FSI or the State Pathologist Office may be regarded as a sample taken under Section 50.
- A sample taken may be used for the purposes of the investigation of the death of the unknown person and may be used in any proceedings that may arise.
- If a sample is insufficient / inadequate or if the coroner deems it necessary, a second or further sample may be taken from the body.



Additional Sections of Note for members of An Garda Síochána

- Pursuant to *Section 14* the following should be considered when providing information to protected persons or children:

Protected person - information given to a protected person pursuant to *Sections 12(5), 13(5), 16(2) or 24(4)* shall be in a manner and language that is appropriate to the level of understanding of the person concerned.

Child - information given to a child under *Sections 11(3)* (if appropriate), *12(5), 13(5), 17(2) or 24(4)* shall be in a manner and language that is appropriate to the level of understanding of the child concerned.

- Pursuant *Section 45* of the Act, the Commissioner may direct certain persons to provide a sample in relation to the investigation of a particular investigation to ascertain if that person has contaminated a crime scene sample.

A direction may be given by the Commissioner in this regard to

- (a) a member / trainee member or reserve member including those involved in crime scene investigation (other than those who are required to give a sample under *Sections 41(2) & 42(2)* of the Act), and
- (b) a member of civilian staff of An Garda Síochána (other than those to whom *Section 42(2)* applies).

- Pursuant to *Section 164* of the Act, failure by a member of An Garda Síochána to observe the provisions of the Act, Code of Practice and any other regulations made under the Act, shall render that member liable to disciplinary proceedings. Such a failure shall not of itself render a member liable to any criminal or civil proceedings or shall not affect the admissibility of any evidence obtained – although the court may exercise its discretionary power to exclude such evidence.
- Pursuant to *Section 155*, samples obtained under the Act shall be taken from a person in circumstances which afford reasonable privacy to the person. Samples shall not be taken from a person in the presence or view of a person whose presence is not necessary for the purposes of taking the sample. Samples shall not be taken from a person in a cruel, degrading or inhuman manner. A sample shall not be taken from a person who is in custody under any of the provisions referred to in *Section 9(1)* while he / she is being questioned under that provision. If questioning has not been completed before the sample is to be taken, it shall be suspended while the sample is being taken.

Section 56 –Application for court order authorising taking of certain samples from a protected person or child (Sections 27, 29 and 48)

Legislation

This Section provides for an application to be made to a District Court judge in circumstances when the consent of a parent / guardian / other relative cannot be obtained or if the parent / guardian / other relative is excluded (as per *Section 54(5)*) from giving consent to a sample being taken from a protected person or child under *Section 27,29 or 48*.

Code of Practice

- Member not below rank of Inspector makes application to District Court judge for an authorisation for the taking of a sample under Section 27, 29 or 48 of the Act from a protected person / child.
- Applicable only in circumstances when consent cannot be obtained from a parent / guardian / other relative of a protected person or child, or the parent / guardian / other relative is excluded from giving consent because:
 - i. he / she has been arrested in respect of the offence;
 - ii. a member not below the rank of Inspector has reasonable grounds to suspect him / her of complicity in the offence, or
 - iii. a member not below the rank of Inspector has reasonable grounds for believing that he / she is likely to obstruct the course of justice.

Section 160 – Offences and Penalties

The Act contains a number of offences of which a person may be charged with, including:

1. A person who Obstructs or attempts to obstruct any member of An Garda Síochána or any other person acting under powers conferred by Part 2 (except Section 11), shall be guilty of an offence and shall be liable to:
 - a. on summary conviction, to a Class A fine or imprisonment for a term not exceeding 12 months or both, or
 - b. on conviction on indictment, to a fine not exceeding €30,000 or imprisonment for a term not exceeding 3 years or both.
2. A person who obstructs or attempts to obstruct a member of An Garda Síochána acting under powers conferred by Sections 11, 31, 32, or 34 shall be guilty of an offence and shall be liable on summary conviction to a Class A fine or imprisonment for a term not exceeding 12 months or both.
3. A person who –
 - a. obstructs a member of An Garda Síochána in the exercise of his / her powers under Section 35, or
 - b. does not comply, or obstructs compliance, with an order made by a judge of the District Court under that Section,

shall be guilty of an offence and shall be liable on summary conviction to a Class A fine or imprisonment for a term not exceeding 12 months or both.

Section 161 & 162 – Authorisations and evidence of certain authorisations under the Act.

An authorisation given under

- *Section 11(2)* – sample taken for purposes of DNA Database System
- *Section 12(2)(a)* – intimate sample
- *Section 13(2)* – non-intimate sample
- *Section 20(1)(b)(i)* – sample taken under *Section 11* becomes sample to be used for forensic purposes
- *Section 24(3)* – use of reasonable force
- *Section 25(3)(i)* – retaking of samples
- *Section 29(2)* – mass screening
- *Section 34(2)* – taking of sample from former offender
- *Section 48(3)* – taking of sample in relation to missing persons
- *Section 50(2)* – taking of sample from unknown deceased persons
- *Subsection (4) or (5) of Section 21* – taking of sample from protected persons
- *Subsection (4) or (5) of Section 22* – taking of sample from children
- *Subsection (7)(a) of Section 31* – taking of sample from offenders
- *Subsection (7)(a) of Section 32* – taking of sample from child offenders
- *Subsection (7)(a) or 8(a) of Section 38* – retaking of samples under *Section 31 & 32*

may be given orally but, if it is given orally, it shall be confirmed in writing as soon as is practicable.

In criminal proceedings a certificate to which an authorisation is given (other than for Section 11) shall be admissible as evidence of the matters stated in the certificate. This shall be the case, provided it is signed by the member who gave the authorisation and that it states that he / she gave the authorisation (and if appropriate, the grounds on which the authorisation was given).

In criminal proceedings the court may however direct that oral evidence be given of the matters contained in the certificate in the interests of justice.

DEFINITIONS AND
INTERPRETATIONS

‘THE ACT’ - the Criminal Justice (Forensic Evidence and DNA Database System) Act, 2014 shall be referred to as ‘the Act’.

‘BODY’ - in relation to a deceased human person (including a foetus or stillborn child), means the body or a part of the body of the person and includes the decomposed or cremated remains of the person.

‘CHILD’ - means a person who has not attained the age of 18 years and, for the purposes of sections 32 and 38 of the Act, includes a person who has attained the age of 18 years who is detained in a children detention school in accordance with section 155 of the Children Act, 2001.

‘CHILD OFFENDER’ - means a child who -

- (a) has been convicted of a relevant offence before the commencement of this Section, and at that commencement-
 - a sentence of detention has been imposed by a court on the child in respect of that offence and the child offender is serving a sentence in a children detention school / place of detention, or
 - is on a permitted absence from a child detention school / place of detention, or
 - the sentence still in force or current;
- (b) at any time before or after the commencement of this Section has been or is convicted of a relevant offence and, after commencement of this Section, a sentence of detention is imposed by a court on the child;
- (c) at any time before or after the commencement of this Section has been convicted outside of the State of an offence and, after commencement of this Section, is serving a sentence of detention, in the State in respect of that offence pursuant to the Transfer of Persons Act, 1995 or the Transfer of Execution of Sentences Act, 2005 in respect of an offence that is a relevant offence, or;
- (d) is subject to the registration requirements of Part 2 of the Sex Offenders Act, 2001.

‘CRIME SCENE’ - a crime scene, in relation to an offence or suspected offence, means all or any of the following (whether within or outside the State):

- (a) A place
 - (i) where the offence or suspected offence was, or is reasonably suspected of having been, committed, or

- ii) where there is, or may be, evidence of, or relating to, the commission of the offence or suspected offence that was, or is reasonably suspected of having been, committed elsewhere and includes a place that is designated as a crime scene by a direction given under section 5 of the Criminal Justice Act 2006 that is in force;
- (b) the body of the victim, whether living or deceased, of the offence or suspected offence;
- (c) anything worn or carried by or in contact with the victim, or a person reasonably considered to be a victim, at the time the offence or suspected offence was, or is reasonably suspected of having been, committed;
- (d) the body of any other person who was, or is reasonably suspected of having been, connected with the commission of the offence or suspected offence;
- (e) anything (including a mode of transport) that was, or is reasonably suspected of having been, connected with the commission of the offence or suspected offence.

‘CRIME SCENE SAMPLE’ - means a sample of biological material found at, or recovered from, a crime scene from which a DNA profile in respect of a person may be generated.

‘FORENSIC TESTING’ - in relation to a sample (other than a crime scene sample) means the examination and analysis of the sample and the carrying out of biochemical or other scientific tests and techniques used in connection with the detection and investigation of crime or the identification of persons or bodies, a may be appropriate, on the sample and, if appropriate, includes the generation of a DNA profile from the sample in respect of a person.

‘FORMER OFFENDER’ - means a person (including a child)

- (a) who at any time before the commencement of Sections 31 and 32 of the Act, would if those sections had been in operation at that time have been an offender or child offender but who, on the commencement of those sections, was not an offender or child offender because
 - i. the sentence for the offence concerned for which the person convicted had expired or
 - ii. in the case of a sex offender the notification period had ended
- (b) who at any time after the commencement of Sections 31 and 32 of the Act was an offender or a child offender and

- i. a sample under those sections was not taken from him / her or a sample was taken from him / her but it has proved to be insufficient, and
 - ii. who is no longer an offender or a child offender because the sentence for the offence concerned of which the person had been convicted has expired or in the case of a sex offender the notification period has ended, or
- (c) who has been convicted, either before or after the commencement of Sections 31 and 32, in a place other than the State, of a relevant offence or a sexual offence and has been or is sentenced in that place in respect of that offence and is no longer subject to that sentence.

A person shall not be a former offender

- i. if his / her DNA profile is already entered in the reference index of the DNA Database insofar as that can be ascertained, and
- ii. a member of An Garda Síochána not below the rank of Superintendent or a judge of the District Court is not satisfied that it is appropriate for a sample to be taken, taking into account a number of specified factors (see Section 33)
- iii. if that person is not ordinarily resident in the State or has his / her principal residence in the State, and
- iv. if a period of not less than ten years has elapsed since the expiry of:
 - the sentence for the relevant offence for which the person has been convicted (or if more than one such offence the expiry of the sentence for the relevant offence that was last to expire)
 - or if the person was convicted of a sexual offence, the end of the notification period (or if more than one such period, the last one)

‘GUARDIAN’ - in relation to a child (including a protected person who is a child) means a person who is guardian of the child pursuant to the Guardianship of Infants Act, 1964 or who is appointed to be guardian of the child by deed or will or order of a court or a person who has custody or care of the child by order of a court (but does not include the Health Service Executive).

‘INTIMATE SAMPLE’ - means a sample taken, or to be taken, from a person under Section 12 of the Act which includes a sample of blood, pubic hair or urine; a swab from a genital region or body orifice other than the mouth; or a dental impression.

‘NON INTIMATE SAMPLE’ - means a sample taken, or to be taken, from a person under Section 13 of the Act which includes a sample of saliva, hair (other than pubic hair), a nail, or any material found under a nail; a swab from any part of the body including the mouth but not from any other body orifice or genital region; or a skin impression.

A skin impression, in relation to a person, means any record (other than a fingerprint) which is a record (in any form and produced by any method) of the skin pattern and other physical characteristics or features of the whole or any part of his or her foot or of any other part of his / her body.

‘NOTICE’, SERVICE OF - when a notice is required to be served upon a person under the Act and consequently, under this Code of Practice, it shall be served in person, hand delivery or registered post to the person concerned or his / her solicitor. This shall be carried out according to Section 163 of the Act which directs that a notice shall be delivered:

- i. by delivering the notice to the person or his / her solicitor;
- ii. by addressing the notice to the person and leaving it at the address at which he / she normally resides or, in a case in which an address for service has been provided, at that address or, by addressing it to his / her solicitor and leaving it at the solicitor’s office;
- iii. by sending the notice to the person by registered post to the address at which he / she normally resides or, in a case in which an address for service has been provided, to that address or to his / her solicitor’s office.

‘OFFENDER’ - means a person -

- (a) who has been convicted of a relevant offence before the commencement of Section 31 of the Act and, at that commencement, a sentence of imprisonment has been imposed by a court on the offender in respect of the offence and
 - i. the offender is serving the sentence in prison,
 - ii. the offender is temporarily released under Section 2 of the Criminal Justice Act, 1960, or
 - iii. the sentence is otherwise still in force or current,
- (b) who at any time before or after the commencement of Section 31 of the Act has been or is convicted of a relevant offence and, after that commencement, a sentence of imprisonment is imposed by a court on the offender in respect of the offence, and

(c) who

- i. at any time before or after the commencement of Section 31 of the Act has been or is convicted outside the State of an offence, and
- ii. at any time after that commencement, is serving a sentence of imprisonment in a prison or a balance thereof, in the State in respect of that offence pursuant to the Transfer of Sentenced Persons Act 1995 or the Transfer of Execution of Sentences Act 2005, or

(d) who is subject to the requirements of Part 2 of the Sex Offenders Act 2001.

‘PROTECTED PERSON’ – a person (including a child) who, by reason of a mental or physical disability;

- (a) lacks the capacity to understand the general nature and effect of the taking of a sample from him / her, or
- (b) lacks the capacity to indicate (by speech, sign language or any other means of communication) whether or not he / she consents to a sample being taken from him / her.

A mental or physical disability in relation to a person (including a child) shall be construed as not including a reference to the person being under the intoxicating influence of any alcoholic drink, drug, solvent or any other substance or combination of substances, i.e. intoxication as a result of alcohol, drugs, solvents, any other substance / combination of substances shall not, for the purposes of this Act, cause a person to be considered a protected person.

Rank Specific Roles & **Functions**

**Member in Charge Roles and Functions arising out of the Criminal Justice
(Forensic Evidence and DNA Database System) Act 2014**

Section	Relevance to member in charge
2	<u>[Section 2(1)]</u> Interpretation of 'member in charge'
10	<u>[Section 10(1) & 10(2)(b)]</u> Member in charge to determine as soon as practicable whether a detained person is a protected person or not
11	<u>[Section 11(2)]</u> Member in charge authorises sample to be taken (Where member in charge is not below the rank of a Sergeant)
15	<u>[Section 15(2)(c) & 15(2)(d)]</u> When an intimate sample is to be taken from a protected person the member in charge does not seek consent from parent/guardian as they suspect their complicity in the offence or the member in charge has reasonable grounds for suspecting that he/she is likely to obstruct the course of justice
16	<u>[Section 16(1)(e)]</u> Where a member in charge makes reasonable efforts to contact living parent or guardian and cannot, an application for a Court order can be made by an Inspector (or higher) to take a sample from protected person
17	<u>[Section 17(1)(e)]</u> Where a member in charge makes reasonable efforts to contact living parent or guardian and cannot, an application for a Court order can be made by an Inspector (or higher) to take a sample from child
21	<u>[Section 21(1)(b) & Section 21(2)]</u> Member in charge can nominate another adult to be present while sample is being taken from a protected person & member in charge should as far practicable nominate a person of the same sex and by reason of training or experience is suitable for that purpose
21	<u>[Section 21(4) & 21(5)]</u> Member in charge may authorise the exclusion/removal of a parent/guardian of a protected person for certain reasons
22	<u>[Section 22(1)(b) & Section 22(2)]</u> Member in charge can nominate another adult to be present while sample is being taken from a child & member in charge should as far practicable nominate a person of the same sex and by reason of training or experience is suitable for that purpose
22	<u>[Section 22(4) & 22(5)]</u> Member in charge may authorise the exclusion/removal of a parent/guardian of a child for certain reasons
23	<u>[Section 23(1)]</u> Where member in charge is unable to contact parent/guardian, member in

	charge should inform protected person without delay
23	<u>[Section 23(2)]</u> Where member in charge is unable to contact parent/guardian, member in charge should inform protected person of his/her entitlement to have an adult relative or other adult requested to attend without delay
24	<u>[Section 24(6)(b) & 24(7)]</u> A non-intimate sample to be taken from a protected person with reasonable force shall not be taken unless another adult nominated by the member in charge has been sought
24	<u>[Section 24(8)(b) & 24(9)]</u> A non-intimate sample to be taken from a child with reasonable force shall not be taken unless another adult nominated by the member in charge has been sought

Sergeant Roles and Functions arising out of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014

Section	Relevance to Sergeant
11	[Section 11(2)] Sergeant authorises sample to be taken
27	[Section 27(6)] Sergeant designates place where sample can be taken from volunteer
28	[Section 28(1)] Sergeant may inform a volunteer who is not a protected person/child/victim that consent may be given to put DNA profile on the reference index
29	[Section 29(7)] Sergeant designates place where sample can be taken from person for mass screening
31	[Section 31(7)] Sergeant authorises sample to be taken from offender
32	[Section 32(7)] Sergeant authorises sample to be taken from child offender
100	[Section 100(2)] Sergeant authorises the taking of fingerprints, palmprints for purpose of charge

Inspector Roles and Functions arising out of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014

Section	Relevance to Inspector
12	<u>[Section 12(2)(a)]</u> Inspector authorises the taking of an intimate sample for generation of DNA profile and entering in the reference index
13	<u>[Section 13(2)]</u> Inspector authorises the taking of a non-intimate sample for generation of DNA profile and entering in the reference index
16	<u>[Section 16(1)]</u> Inspector applies to a judge of the District Court for an order authorising the taking of an intimate sample from a protected person
16	<u>[Section 16(3)(i)]</u> On application by an Inspector to a judge of the District Court, parents/guardians of a protected person can be excluded from Court for certain reasons
16	<u>[Section 16(7)]</u> On application by an Inspector a warrant can be granted by a District Court judge for extension of detention of a protected person for a further 4 hours for the purpose of having an intimate sample taken from them
17	<u>[Section 17(1)]</u> Inspector applies to a judge of the District Court for an order authorising the taking of an intimate sample from a child
17	<u>[Section 17(3)(i)]</u> On application by an Inspector, parents/guardians of a child can be excluded from Court (during the hearing of the application) for certain reasons
17	<u>[Section 17(7)]</u> On application by an Inspector a warrant can be granted by a District Court judge for extension of detention of a child for a further 4 hours for the purpose of having an intimate sample taken from them
20	<u>[Section 20(1)(b)(i)]</u> Inspector authorises a sample already taken under Section 11 to become a Section 13 sample (evidential)
24	<u>[Section 24(5)]</u> A sample that is to be taken with reasonable force should be taken in the presence of an Inspector and that Inspector should determine the amount of Gardaí required to be present to take the sample
31	<u>[Section 31(9)]</u> Where a sample has not been taken from an offender in prison an Inspector may require the offender in writing to attend a specified Garda station within a specified timeframe

32	<p><u>[Section 32(9)]</u></p> <p>Where a sample has not been taken from a child offender in a children detention school or a place of detention an Inspector may require the child offender in writing to attend a specified Garda station within a specified timeframe</p>
32	<p><u>[Section 32(10)]</u></p> <p>A notice under Section 32(9) shall also be sent to a parent/guardian of the child offender concerned</p>
38	<p><u>[Section 38(7)(a) & 38(8)(a)]</u></p> <p>An Inspector may authorise the taking of a second sample (taken under Section 31 or 32)</p>
48	<p><u>[Section 48(2)(a)]</u></p> <p>An Inspector must satisfy themselves that the circumstances of disappearance of a missing person justifies the taking of a sample</p>
48	<p><u>[Section 48(3)]</u></p> <p>A sample under this section can only be taken if an Inspector authorises it</p>
49	<p><u>[Section 49(2)]</u></p> <p>Inspector can make an application to the High Court for an order authorising the Commissioner to cause to take a sample from an unknown person</p>
54	<p><u>[Section 54(5)(b) & 54(5)(c)]</u></p> <p>If an Inspector suspects that parents/guardians of a protected person/child are complicit in the offence or is likely to obstruct the course of justice - consent is not required for the taking of a sample</p>
56	<p><u>[Section 56(1)]</u></p> <p>Inspector may apply to a judge of the District Court for an order to take a sample from a protected person/child under Section 27, 29 or 48 (volunteer, mass screening, missing persons)</p>
102	<p><u>[Section 102]</u></p> <p><u>Amendment - Section 6A(c) of Criminal Justice Act 1984</u></p> <p>Amendment of role of Inspector under subsection 6A(c) – “A member of the Garda Síochána not below the rank of inspector and that member shall determine the number of members of the Garda Síochána that is reasonably necessary for the purposes of subsection”</p>
132	<p><u>[Section 132(i)(11)(c) & 132(i)(11)(d)]</u></p> <p><u>Amendment – Section 79 of Criminal Justice (Mutual Assistance) Act 2008</u></p> <p>Insertion of subsection 11I - parent/guardian's consent not required if Inspector has reasonable grounds for suspecting complicity or suspects they are likely to obstruct the course of justice</p>
134	<p><u>[Section 134]</u></p> <p><u>Amendment of Criminal Justice (Mutual Assistance) Act 2008 by insertion of Section 79B [Section 79B(1) &Section 79B(1)(c)]</u></p> <p>A member of An Garda Síochána not below the rank of Inspector may apply to a judge of the District Court for an order to take identification evidence from a protected person/child having established that such protected person/child does not have or cannot find having made reasonable efforts to locate a</p>

	parent/guardian
134	<p>[Section 134]</p> <p><u>Amendment of Criminal Justice (Mutual Assistance) Act 2008 by insertion of Section 79B [Section 79B(3)(i)]</u></p> <p>An application may be heard otherwise than in public and/or without parents/guardians present if an Inspector believes it is necessary to avoid a risk of prejudice</p>
139	<p>[Section 139]</p> <p><u>Amendment of International Criminal Court Act 2006 [Section 50(b)(1B)(c) & Section 50(b)(1B)(d)]</u></p> <p>Amendment of International Criminal Court Act 2006 - parent/guardian's consent not required if Inspector has reasonable grounds for suspecting complicity or suspects they are likely to obstruct the course of justice</p>
140	<p>[Section 140]</p> <p><u>Amendment of International Criminal Court Act 2006 [insertion of Section 50A(1)(c)]</u></p> <p>A member of An Garda Síochána not below the rank of Inspector may apply to a judge of the District Court for an order to take identification evidence from a protected person/child having established that such protected person/child does not have or cannot find having made reasonable efforts to locate a parent/guardian</p>
140	<p>[Section 140]</p> <p><u>Amendment of International Criminal Court Act 2006 [insertion of Section 50A(3)(b)(i)]</u></p> <p>An application may be heard otherwise than in public and/or without parents/guardians present if an Inspector believes it is necessary to avoid a risk of prejudice</p>
166	<p>[Section 166]</p> <p>Where a Superintendent is mentioned under the Offences Against the State Act 1939, the Criminal Justice (Drug Trafficking) Act 1996, the Criminal Justice Act 1984, or the Criminal Justice Act 2007, an Inspector can fulfil the role of such Superintendent if re-arrest for an offence under these provisions is required for the purposes of DNA</p>

**Superintendent Roles and Functions arising out of the Criminal Justice
(Forensic Evidence and DNA Database System) Act 2014**

Section	Relevance to Superintendent
24	<u>[Section 24(3)]</u> Where a person fails or refuses to allow a sample to be taken under Section 11 a Superintendent can authorise the use of force for its taking
25	<u>[Section 25(3)(c)(i)]</u> A Superintendent can authorise the taking of a second non-intimate sample where the original sample is deemed insufficient or inadequately labelled
25	<u>[Section 25(7)]</u> The period in which a person must attend at a Garda Station is one month after the Superintendent has been informed that the sample was deemed insufficient or was inadequately labelled
25	<u>[Section 25(10)]</u> If a person fails to comply with a notice under this Section then a Superintendent can apply to a judge of the District Court for a warrant of arrest
33	<u>[Section 33(2)(b)(i)-(vii)]</u> A Superintendent can deem a person not to be a former offender unless he/she is satisfied as to the nature, duration and number of offences as per Section 33(2)(b)(i)-(vii)
34	<u>[Section 34(2)]</u> A Superintendent can authorise the taking of a sample from an offender if they are satisfied that the person is a former offender and that it is in the interests of the protection of society and it is desirable for the purpose of assisting the Garda Síochána in the investigation of offences
34	<u>[Section 34(6)]</u> Superintendent can apply to a judge of the District Court for an order authorising An Garda Síochána to send a notice to a person requiring their attendance at a named Garda Station at a specified date and time
35	<u>[Section 35(2)]</u> Superintendent can apply to a judge of the District Court for an order to take a sample from a person who has died (and may be involved in the commission of an offence) or where the taking of such sample would further the investigation of the relevant offence
35	<u>[Section 35(7)]</u> Superintendent can apply to a judge of the District Court for an order to authorise entry and search a place where they believe the body of a deceased person is and/or to seize the body if necessary
39	<u>[Section 39(4)]</u> Superintendent can apply to a judge of the District Court for an order authorising An Garda Síochána to send a notice to a former offender requiring their attendance at a named Garda Station at a specified date and time for the purpose of having a second sample taken from him/her

50	<p><u>[Section 50(4)]</u></p> <p>The Coroner shall inform a Superintendent in whose District a death has occurred of an unknown person, that a sample under this section is to be taken</p>
93	<p><u>[Section 93(3)]</u></p> <p>Judge of District Court can, on application from a Superintendent, authorise the retention of a sample or DNA profile taken under Section 27 or 29 (voluntary or mass screening) for a period that they deem appropriate</p>
93	<p><u>[Section 93(4)(b)]</u></p> <p>Superintendent should cause to be informed the person from whom a sample was taken under Section 27 or 29 of the intention to retain, in writing</p>
133	<p><u>[Section 133]</u></p> <p><u>Amendment of Criminal Justice (Mutual Assistance) Act 2008 by insertion of Section 79A – [Section 79A(5)]</u></p> <p>A member of An Garda Síochána not below the rank of Superintendent may apply to a judge of the District Court for an order to send a notice to a person requiring their attendance at a named Garda Station at a specified date and time and in the event of refusal, to arrest and detain for a period not exceeding 4 hours</p>
133	<p><u>[Section 133]</u></p> <p><u>Amendment of Criminal Justice (Mutual Assistance) Act 2008 by insertion of Section 79A – [Section 79A(15)]</u></p> <p>A member of An Garda Síochána not below the rank of Superintendent may apply to a judge of the District Court for an order to send a notice to a person requiring their attendance at a named Garda Station at a specified date and time (where the DNA sample proves to be insufficient or inadequately labelled) and in the event of refusal, to arrest and detain for a period not exceeding 4 hours</p>
150	<p><u>[Section 150(1)]</u></p> <p>Superintendent may appoint in writing a person (other than a member of An Garda Síochána) to be an authorised person</p>
150	<p><u>[Section 150(4)]</u></p> <p>Superintendent may revoke in writing a person (other than a member of An Garda Síochána) from being an authorised person</p>
166	<p><u>[Section 166]</u></p> <p>Where a Superintendent is mentioned under the Offences Against the State Act 1939, the Criminal Justice (Drug Trafficking) Act 1996, the Criminal Justice Act 1984, or the Criminal Justice Act 2007, an Inspector can fulfil the role of such Superintendent if re-arrest for an offence under these provisions is required for the purposes of DNA</p>

**Chief Superintendent Roles and Functions arising out of the Criminal Justice
(Forensic Evidence and DNA Database System) Act 2014**

Section	Relevance to Chief Superintendent
29	[Section 29(2)] A member of An Garda Síochána not below the rank of Chief Superintendent may authorise the mass screening of a class of persons in accordance with this section for the purposes of the investigation of a relevant offence if the member has reasonable grounds for believing that the mass screening is likely to further the investigation of the offence and is reasonable and proportionate
109	[Section 109(1)] "Head", in relation to the Technical Bureau of An Garda Síochána, means the member of An Garda Síochána of the rank of Chief Superintendent, or of another rank, who is for the time being in charge of the Technical Bureau of the Garda Síochána

**Commissioner Roles and Functions arising out of the Criminal Justice
(Forensic Evidence and DNA Database System) Act 2014**

Section	Relevance to Commissioner
2	<u>[Section 2(1)]</u> Definition of 'Commissioner' under the Act
3	<u>[Section 3(11)(a) & 3(11)(b)]</u> The Commissioner shall retain records to show that Sections 97 and 98 have been complied with
7	<u>[Section 5(b)]</u> The Commissioner shall inform a person by notice in writing that a DNA sample is to be used for a purpose other than what it was taken for and obtain consent from that person
45	<u>[Section 45(1) & 45(3)]</u> If the Commissioner believes that a member of An Garda Síochána has contaminated a crime scene he/she can direct that person to provide a sample. Such direction should be given in writing
47	<u>[Section 47(1)]</u> If a sample taken under Section 41, 42 or 45 is insufficient or inadequately labelled the Commissioner can direct that a second sample be taken
49	<u>[Section 49(2)]</u> Inspector can make an application to the High Court for an order authorising the Commissioner to cause to take a sample from an unknown person
49	<u>[Section 49(5)]</u> The High Court can make an order for the Commissioner to cause to be taken a sample from an unknown person under certain circumstances
68	<u>[Section 68(a) & 68(b)]</u> The Director of Forensic Science Ireland, following consultation with the Commissioner, may, for the purposes of subsection (4)(b) and (5)(b), give a general direction in writing regarding the circumstances in which it is necessary for DNA profiles entered in the elimination (crime scene investigators) index of the DNA Database System to be compared with DNA profiles entered in the crime scene index of that System
77	<u>Section 77(1)(a)-(d)</u> An intimate sample shall not be destroyed as long as the Commissioner determines that certain circumstances apply as per Section 77(1)(a)-(d)
77	<u>Section 77(2)(a)-(d)</u> The Commissioner when determining whether to retain the sample concerned shall have regard to matters as per Section 77(2)(a)-(d)
77	<u>[Section 77(3)]</u> If, in relation to an intimate sample or a non-intimate sample taken from a person, if the Commissioner determines that one of the paragraphs of subsection (1) of this Section applies, then, he or she may, during the retention

	period referred to in section 76 , give an authorisation to extend that period by a period of 12 months.
77	<u>[Section 77(4)]</u> The Commissioner may, while an authorisation under subsection (3) of Section 77 or this subsection, as may be appropriate, is still in force, give an authorisation under this subsection to extend the retention period on a second or further occasion for a period of 12 months commencing on the expiration of the period of 12 months to which the authorisation previously given relates if he or she determines that one of the paragraphs of subsection (1) applies.
77	<u>[Section 77(5)]</u> Whenever the Commissioner gives an authorisation under subsection (3) or (4), he or she shall, in relation to an intimate sample or a non-intimate sample taken from a person that is the subject of the authorisation, cause the person (and parent/guardian where appropriate) to be informed by notice in writing that the authorisation has been given under subsection (3) or (4), as may be appropriate, the date on which that authorisation was given and of the right of appeal under subsection (6).
77	<u>[Section 77(7)]</u> An appeal under subsection (6) shall be on notice to the Commissioner and be heard otherwise than in public
77	<u>[Section 77(8)]</u> If, on an appeal under subsection (6), the District Court - (a) confirms the authorisation concerned, or (b) allows the appeal, the Commissioner shall give effect to the decision of the Court.
78	<u>[Section 78(1)]</u> Notwithstanding sections 76 and 77 , if the Commissioner is satisfied that exceptional circumstances exist that justify the destruction of an intimate sample or a non-intimate sample, the sample concerned shall be destroyed as soon as practicable after the application of those circumstances in relation to that sample becomes known.
79	<u>[Section 79(2)]</u> If the Commissioner is satisfied that exceptional circumstances exist that justify the destruction of a sample taken from a person under section 11 , the sample shall, if not previously destroyed, be destroyed as soon as practicable after the application of those circumstances in relation to the sample becomes known.
81	<u>[Section 81(1)]</u> A DNA profile of a person in the reference index of the DNA Database System shall not be removed from that System under section 80 in any case in which the Commissioner determines that it is necessary to retain the DNA profile in that index of that System to assist in the investigation or prosecution of offences.
81	<u>[Section 81(2)]</u> The Commissioner may determine under subsection (1) that the DNA profile of a person shall be retained in the reference index of the DNA Database System in the following circumstances: An investigation is ongoing or it is to be decided whether to institute proceedings OR if the Commissioner deems that given the persons previous convictions as per subsection 3 justify the retention of the sample
81	<u>[Section 81(3)]</u>

	The matters referred to in subsection (2)(b) to which the Commissioner shall have regard are: previous convictions of person; nature and seriousness of offence; whether victim was child, vulnerable person or associated with the person; age of person; any other matter the Commissioner considers appropriate
81	<u>[Section 81(4)]</u> Subject to subsection (7), if, in relation to the DNA profile of a person, the Commissioner makes a determination under subsection (1) on the basis that subsection (2)(a) applies, he or she may, during the retention period referred to in section 80 , give an authorisation to extend that period by a period of 12 months.
81	<u>[Section 81(5)]</u> Subject to subsection (7), the Commissioner may, while an authorisation under subsection (4) or this subsection, as may be appropriate, is still in force, give an authorisation under this subsection to extend the retention period on a second or further occasion for a period of not more than 12 months commencing on the expiration of the period of 12 months to which the authorisation previously given relates if he or she makes a determination under subsection (1) on the basis that subsection (2)(a) applies.
81	<u>[Section 81(6)]</u> Subject to subsection (7), the Commissioner may, while an authorisation under subsection (4) or (5), as may be appropriate, is still in force, give an authorisation under this subsection to extend the retention period on a second or further occasion for a further period commencing on the expiration of the period of 12 months to which the authorisation previously given relates if he or she makes a determination under subsection (1) on the basis that subsection (2)(b) applies.
81	<u>[Section 81(8)]</u> Subject to subsection (9), if, in relation to the DNA profile of a person, the Commissioner makes a determination under subsection (1) on the basis that subsection (2)(b) applies, he or she may, during the retention period referred to in section 80 , give an authorisation to extend that period.
81	<u>[Section 81(10)]</u> Whenever the Commissioner gives an authorisation under subsection (4), (5), (6) or (8), he or she shall, in relation to the DNA profile of the person that is the subject of the authorisation, cause the person (or parent/guardian in the case of a child/protected person) to be informed by notice in writing that the authorisation has been given under subsection (4), (5), (6) or (8), as may be appropriate, the date on which that authorisation was given and of the right of appeal under subsection (11).
81	<u>[Section 81(12)]</u> An appeal under subsection (11) shall - (a) be on notice to the Commissioner, and (b) be heard otherwise than in public.
81	<u>[Section 81(13)]</u> If, on an appeal under subsection (11), the District Court - (a) confirms the authorisation concerned, or (b) allows the appeal, the Commissioner shall give effect to the decision of the Court.
82	<u>[Section 82(1)]</u> Notwithstanding sections 80 and 81 , if the Commissioner is satisfied that exceptional circumstances exist that justify the removal from the DNA Database

	System of a DNA profile that was generated from a sample taken from a person under section 11 , 12 or 13and entered in the reference index of that System, the DNA profile concerned shall be so removed as soon as practicable after the application of those circumstances in relation to that DNA profile becomes known.
83	<u>[Section 83(1)]</u> A person from whom a sample was taken under section 34 may apply to the Commissioner under this section to have his or her DNA profile that was generated from the sample and entered in the reference index of the DNA Database System removed from that System.
83	<u>[Section 83(4)]</u> The Commissioner shall, as soon as may be after the receipt of an application under subsection (1), acknowledge the receipt of it by notice in writing.
83	<u>[Section 83(5)]</u> The Commissioner shall, as soon as may be but not later than 3 months after the receipt of an application under subsection (1), determine the application.
83	<u>[Section 83(6)]</u> The Commissioner shall, for the purposes of determining an application under subsection (1), consider in accordance with section 33 whether the person concerned is a former offender.
83	<u>[Section 83(7)]</u> The determination of the Commissioner of an application under subsection (1) may provide for the retention in, or the removal from, the DNA Database System of the DNA profile of the person concerned.
83	<u>[Section 83(8)]</u> The Commissioner shall cause the person concerned to be informed by notice in writing of the determination and the reasons for it, the date on which it was made and of the right of appeal under subsection (9).
83	<u>[Section 83(9)]</u> Where the Commissioner, in relation to an application under subsection (1) (a) refuses the application, or (b) does not determine the application within the time limit specified in subsection (5) in which case the application shall be deemed to have been refused, the person concerned or, if that person is a child or a protected person, a parent or guardian on his or her behalf may, within the period of 3 months from the date of the determination Criminal Justice (Forensic Evidence and DNA Database System) Act or, as may be appropriate, the latest date for making a determination under subsection (5), appeal to the District Court against the determination.
83	<u>[Section 83(10)]</u> An appeal under subsection (9) shall (a) be on notice to the Commissioner, and (b) be heard otherwise than in public.
83	<u>[Section 83(11)]</u> If, on an appeal under subsection (9), the District Court— (a) confirms the determination concerned, or (b) allows the appeal, the Commissioner shall ensure that effect is given to the decision of the Court.
87	<u>[Section 87(1)]</u>

	<p>Subject to subsection (2) (a) a person from whom a sample was taken under section 27 or 29 , or (b) in the case of a protected person or a child, the person who gave consent under section 54 to the taking of a sample under section 27 or 29 from the protected person or child, as the case may be, may request the destruction of the sample, or the DNA profile generated from the sample in respect of the person from whom it was taken, or both by notice in writing sent or given to the Commissioner.</p>
87	<p><u>[Section 87(3)]</u></p> <p>Subject to subsections (4) to (7) and section 93 , a sample taken from a person under section 27 or 29, and the DNA profile generated from the sample in respect of the person from whom it was taken, shall be destroyed not more than 3 months after the receipt by the Commissioner of the notice under subsection (1).</p>
87	<p><u>[Section 87(4)]</u></p> <p>Where the DNA profile in respect of a person from whom a sample was taken under section 27 is entered in the reference index of the DNA Database System under section 28, the Commissioner may request the person to consent to the removal of the DNA profile in respect of the person from that System and its retention solely for the purposes of the investigation of the particular offence in connection with the investigation of which the sample was taken.</p>
88	<p><u>[Section 88(3)]</u></p> <p>A person (a) to whom subsection (3) of section 41 applies and from whom a sample was taken under that section, or (b) to whom subsection (3) of section 42 applies and from whom a sample was taken under that section, may, at any time and without specifying a reason, request the destruction of the sample if not already destroyed, and the removal of his or her DNA profile from the DNA Database System, by notice in writing sent or given to the Commissioner.</p>
88	<p><u>[Section 88(4)]</u></p> <p>Subject to subsections (5) and (6), a sample taken under section 41 or 42 from a person referred to in subsection (3) shall be destroyed if not previously destroyed, and his or her DNA profile shall be removed from the DNA Database System, not more than 3 months after the receipt by the Commissioner of the notice under that subsection.</p>
88	<p><u>[Section 88(5)]</u></p> <p>If the Director of FSI, following consultation with the Commissioner, is satisfied that there is good reason relating to the investigation of offences why a DNA profile in respect of a person entered in the elimination (Garda Síochána) index or the elimination (crime scene investigators) index of the DNA Database System should not be removed from that System under subsection (2) or (4), the Director may, subject to subsection (6), direct that the DNA profile should not be removed from that System.</p>
88	<p><u>[Section 88(6)]</u></p> <p>At the end of each year, the Director of FSI shall carry out a review to determine whether any of the DNA profiles in respect of persons referred to in subsection (5) shall be removed from the DNA Database System and he or she shall consult the Commissioner for the purposes of that review.</p>
91	<p><u>[Section 91(2)]</u></p> <p>If the Commissioner, in the case of a sample taken from a person under section 45 is satisfied that there is good reason relating to the investigation of a particular offence why the sample taken from the person under section 45 or 46 , as the case may be, or the DNA profile generated from the sample in respect</p>

	of the person, or both should not be destroyed, he or she may direct that the sample or DNA profile or both shall not be destroyed until a period of not more than 3 months has elapsed after the investigation of that offence is concluded or any proceedings in respect of that offence are determined whichever is the later.
91	<p><u>[Section 91(4)]</u></p> <p>The Commissioner in the case of a person from whom a sample was taken under section 45, and the Director of FSI in the case of a person from whom a sample was taken under section 46, shall inform the person by notice in writing if a direction is given by the Commissioner or the Director, as the case may be, under subsection (2) in relation to the DNA profile in respect of the person.</p>
92	<p><u>[Section 92(1)]</u></p> <p>A person referred to in subsection (1)(b) of section 48 from whom a sample was taken under that section, or, in the case of a protected person or a child, the person who gave consent under section 54 to the taking of a sample under that section from the protected person or the child, as the case may be, may request the destruction of the sample, or the removal from the DNA Database System of the DNA profile generated from the sample in respect of the person, or both by notice in writing sent or given to the Commissioner.</p>
92	<p><u>[Section 92(2)]</u></p> <p>Subject to subsections (7) to (9), a sample taken under section 48 from a person referred to in subsection (1) (b) of that section shall be destroyed, or the DNA profile generated from the sample in respect of the person shall be removed from the DNA Database System, or both not more than 3 months after the receipt by the Commissioner of the notice under subsection (1).</p>
93	<p><u>[Section 93(1)]</u></p> <p>If a judge of the District Court is satisfied, on an application in that behalf by the Commissioner made within the retention period under section 80 and any extension of that period under an authorisation given under section 81 , that there is good reason why a profile in respect of a person generated from a sample taken from him or her under section 11 ,12 , 13 , 31 or 32 should not be removed from the DNA Database System in accordance with section 80 within that retention period as so extended, the judge may make an order authorising the retention of the DNA profile in that System for such period as he or she considers appropriate.</p>
93	<p><u>[Section 93(2)]</u></p> <p>If a judge of the District Court is satisfied, on an application in that behalf by the Commissioner made within the retention period under section 84 , that there is good reason why a DNA profile in respect of a person who was a child offender generated from a sample taken from him or her under section 11 , 12 , 13 , 31 or 32 should not be removed from the DNA Database System in accordance with section 84 , the judge may make an order authorising the retention of the DNA profile in that System for such period as he or she considers appropriate.</p>
93	<p><u>[Section 93(4)]</u></p> <p>If (a) the Commissioner intends to make an application under subsection (1) or (2), or (b) a member of the Garda Síochána not below the rank of superintendent intends to make an application under subsection (3), the Commissioner or the member, as may be appropriate, shall inform, or cause to be informed, by notice in writing the person from whom the sample concerned was taken and, if that person is a protected person or a child, if appropriate, the person who gave consent to the taking of the sample concerned from the protected person or child, as the case may be, of that intention.</p>

97	<p><u>[Section 97]</u></p> <p>Where a sample taken under this Act, other than section 43 or 46 , from a person, is required by this Act to be destroyed, or the DNA profile in respect of the person generated from the sample is required by this Act to be destroyed or removed from the DNA Database System, the Commissioner shall request, or cause to be requested (a) the Director of FSI or other person who holds the sample, to destroy the sample, or (b) the Director of FSI, to destroy the DNA profile in respect of the person or remove it from that System, as may be appropriate, or both within the period permitted by this Act for the destruction of the sample concerned or the destruction of the DNA profile concerned or its removal from that System, as the case may be.</p>
98	<p><u>[Section 98(1)]</u></p> <p>If, in relation to an intimate sample or a non-intimate sample taken from a person, the retention period under section 76 is extended on one or more occasions under section 77, the Commissioner shall, upon the expiration of that period (as so extended), cause (a) the person from whom the sample concerned was taken, or (b) if that person is a protected person or a child, a parent or guardian of the person or child, as the case may be, to be informed by notice in writing as soon as may be after the sample concerned has been destroyed under this Part of its destruction.</p>
98	<p><u>[Section 98(2)]</u></p> <p>The Commissioner shall, upon the expiration of the period (as so extended) concerned, cause—(i) the person to whom the DNA profile relates, or (ii) if that person is a protected person or a child, a parent or guardian of the person or child, as the case may be, to be informed by notice in writing as soon as may be after the removal of the DNA profile from that System of its removal.</p>
98	<p><u>[Section 98(3)]</u></p> <p>The Commissioner shall, in relation to a sample taken under section 27 , 29 , 44 , 48 , 49 or 50 , cause (a) the person from whom the sample was taken if he or she applied for or requested (i) the destruction of the sample, or (ii) the destruction, or removal from the DNA Database System, of his or her DNA profile, or both, and (b) if appropriate, any other person who applied for or requested (i) the destruction of the sample, or (ii) the destruction, or such removal, of the DNA profile, or both on behalf of the person referred to in paragraph (a) or the deceased person from whose body the sample was taken, as may be appropriate, to be informed by notice in writing as soon as may be after the sample has been destroyed under this Part of its destruction, or the destruction of the DNA profile in respect of the person of its destruction or its removal from the DNA Database System under this Part of its removal from that System, or both.</p>
98	<p><u>[Section 98(4)]</u></p> <p>The Commissioner shall inform, or cause to be informed, by notice in writing a person from whom a sample was taken under section 41, 42 or 45 as soon as may be after the sample has been destroyed under this Part of its destruction, or the removal of the DNA profile in respect of the person from the DNA Database System under this Part of its removal from that System, or both.</p>
101	<p><u>[Section 101]</u></p> <p><u>Amendment of Criminal Justice Act 1984</u></p> <p>Insertion of Definition of Commissioner under the Criminal Justice Act of 1984</p>
103	<p><u>[Section 103]</u></p>

	<p><u>Amendment of Criminal Justice Act 1984 by Substituting of Section 8 with Section 8 to 8I - [Section 8A(1)]</u></p> <p>A fingerprint, palm print or photograph taken from or of a person shall not be destroyed under section 8 in any case in which the Commissioner determines that certain circumstances apply</p>
103	<p>[Section 103]</p> <p><u>Amendment of Criminal Justice Act 1984 by Substituting of Section 8 with Section 8 to 8I - [Section 8A(2)]</u></p> <p>The matters referred to in subsection (1)(b) to which the Commissioner shall have regard are: previous convictions of person; nature and seriousness of offence; whether victim was child, vulnerable person or associated with the person; age of person; any other matter the Commissioner considers appropriate</p>
103	<p>[Section 103]</p> <p><u>Amendment of Criminal Justice Act 1984 by Substituting of Section 8 with Section 8 to 8I - [Section 8A(3)]</u></p> <p>If, in relation to a fingerprint, palm print or photograph taken from or of a person, the Commissioner determines that one of the paragraphs of subsection (1) applies, then, he or she may, during the retention period referred to in section 8, give an authorisation to extend that period by a period of 12 months.</p>
103	<p>[Section 103]</p> <p><u>Amendment of Criminal Justice Act 1984 by Substituting of Section 8 with Section 8 to 8I - [Section 8A(4)]</u></p> <p>The Commissioner may, while an authorisation under subsection (3) or this subsection, as may be appropriate, is still in force, give an authorisation under this subsection to extend the retention period on a second or further occasion for a period of 12 months commencing on the expiration of the period of 12 months to which the authorisation previously given relates if he or she determines that one of the paragraphs of subsection (1) applies.</p>
103	<p>[Section 103]</p> <p><u>Amendment of Criminal Justice Act 1984 by Substituting of Section 8 with Section 8 to 8I - [Section 8A(5)]</u></p> <p>Whenever the Commissioner gives an authorisation under subsection (3) or (4), he or she shall, in relation to a fingerprint, palm print or photograph taken from or of a person that is the subject of the authorisation, cause the person to be informed by notice in writing that the authorisation has been given under subsection (3) or (4), as may be appropriate, the date on which that authorisation was given and of the right of appeal under subsection (6).</p>
103	<p>[Section 103]</p> <p><u>Amendment of Criminal Justice Act 1984 by Substituting of Section 8 with Section 8 to 8I - [Section 8A(7)]</u></p> <p>An appeal under subsection (6) shall (a) be on notice to the Commissioner, and (b) be heard otherwise than in public.</p>
103	<p>[Section 103]</p> <p><u>Amendment of Criminal Justice Act 1984 by Substituting of Section 8 with Section 8 to 8I - [Section 8A(8)]</u></p> <p>If, on an appeal under subsection (6), the District Court (a) confirms the authorisation concerned, or (b) allows the appeal, the Commissioner shall give effect to the decision of the Court.</p>

103	<p>[Section 103]</p> <p><u>Amendment of Criminal Justice Act 1984 by Substituting of Section 8 with Section 8 to 8I - [Section 8B(1)]</u></p> <p>Notwithstanding sections 8 and 8A, if the Commissioner is satisfied that exceptional circumstances exist that justify the destruction of a fingerprint, palm print or photograph of a person, the fingerprint, palm print or photograph concerned shall be destroyed as soon as practicable after the application of those circumstances in relation to that fingerprint, palm print or photograph becomes known.</p>
103	<p>[Section 103]</p> <p><u>Amendment of Criminal Justice Act 1984 by Substituting of Section 8 with Section 8 to 8I - [Section 8D]</u></p> <p>If, in relation to a fingerprint, palm print or photograph taken from or of a person under section 6 or 6A, the retention period under section 8 is extended on one or more occasions under section 8A, the Commissioner shall, upon the expiration of that period (as so extended), cause the person from or of whom the fingerprint, palm print or photograph was taken to be informed by notice in writing as soon as may be after the fingerprint, palm print or photograph has been destroyed of its destruction.</p>
103	<p>[Section 103]</p> <p><u>Amendment of Criminal Justice Act 1984 by Substituting of Section 8 with Section 8 to 8I - [Section 8F(1)]</u></p> <p>The Commissioner may, in writing, delegate any of his or her functions under sections 8A, 8B, 8D and 8H to (a) members of the Garda Síochána specified by rank or name, or (b) members of the civilian staff of the Garda Síochána by grade, position, name or otherwise.</p>
103	<p>[Section 103]</p> <p><u>Amendment of Criminal Justice Act 1984 by Substituting of Section 8 with Section 8 to 8I - [Section 8F(2)]</u></p> <p>A delegation under this section may (a) relate to the performance of a function either generally or in a particular case or class of case or in respect of a particular matter, (b) be made subject to conditions or restrictions, and (c) be revoked or varied by the Commissioner at any time.</p>
103	<p>[Section 103]</p> <p><u>Amendment of Criminal Justice Act 1984 by Substituting of Section 8 with Section 8 to 8I - [Section 8F(3)]</u></p> <p>The delegation of a function under this section does not preclude the Commissioner from performing the function.</p>
103	<p>[Section 103]</p> <p><u>Amendment of Criminal Justice Act 1984 by Substituting of Section 8 with Section 8 to 8I - [Section 8F(4)]</u></p> <p>Where the functions of the Commissioner under a provision of sections 8A, 8B, 8D and 8H are delegated to a person, any references in that provision to the Commissioner shall be construed as references to that person.</p>
103	<p>[Section 103]</p> <p><u>Amendment of Criminal Justice Act 1984 by Substituting of Section 8 with Section 8 to 8I - [Section 8F(5)]</u></p> <p>An act or thing done by a person pursuant to a delegation under this section has</p>

	the same force and effect as if done by the Commissioner.
103	<p>[Section 103]</p> <p><u>Amendment of Criminal Justice Act 1984 by Substituting of Section 8 with Section 8 to 8I - [Section 8H(2)]</u></p> <p>Subsection (1) shall operate in a manner that permits the Commissioner to retain such records as may be required by him or her to show that section 8D has been complied with.</p>
123	<p>[Section 123]</p> <p><u>Application of Data Protection Act 1998 - [Addition of subsection 7(iii)(3)]</u></p> <p>Where</p> <p>(a) the Minister or the Commissioner of the Garda Síochána pays damages to a data subject under this section for damage caused to the data subject by reason of inaccurate data received by the national contact point in relation to DNA data or the national contact point in relation to dactyloscopic data, as may be appropriate, from a body in a designated state pursuant to Chapter 2 or 3 of Part 12 of the Act of 2014, or</p> <p>(b) the Minister, the Commissioner of the Garda Síochána or the Director of Public Prosecutions pays damages to a data subject under this section for damage caused to the data subject by reason of inaccurate data received by the Central Authority, the Garda Síochána or the Director of Public Prosecutions, as may be appropriate, from a body in a Member State or Iceland or Norway pursuant to an Article 7 request, the Minister, the Commissioner of the Garda Síochána or the Director of Public Prosecutions, as the case may be, may seek a refund of the amount that he or she paid in damages to the data subject concerned from the body in the designated state concerned.</p>
123	<p>[Section 123]</p> <p><u>Application of Data Protection Act 1998 - [Addition of subsection 7(iii)(4)]</u></p> <p>The Minister or the Commissioner of the Garda Síochána, as may be appropriate, in the circumstances referred to in paragraph</p> <p>(a), or the Minister or the Director of Public Prosecutions, as may be appropriate, in the circumstances referred to in paragraph</p> <p>(b), shall refund to the body in the designated state concerned the amount paid in damages by it, or on its behalf, to the data subject concerned.</p>
123	<p>[Section 123]</p> <p><u>Application of Data Protection Act 1998 - [Insertion into Section 9(1E)(a)]</u></p> <p>The Commissioner shall be the competent data protection authority in the State for the purposes of a European Union or international instrument.</p>
123	<p>[Section 123]</p> <p><u>Application of Data Protection Act 1998 - [Insertion into Section 9(1E)(b)]</u></p> <p>The lawfulness of the processing of personal data supplied or received pursuant to (i) Chapter 2 of Part 12 of the Act of 2014, (ii) Chapter 3 of that Part of that Act, and (iii) an Article 7 request, shall be monitored by the Commissioner.</p>
123	<p>[Section 123]</p> <p><u>Application of Data Protection Act 1998 - [Insertion into Section 9(1E)(c)]</u></p> <p>The performance by the Commissioner of his or her function under paragraph (b) shall include the carrying out of random checks on the</p>

	processing of personal data referred to in that paragraph.
123	<p>[Section 123]</p> <p><u>Application of Data Protection Act 1998 - [Insertion into Section 9(1E)(d)]</u></p> <p>The Commissioner may request the data protection authority of a designated state to perform its functions under the law of that designated state with regard to checking the lawfulness of the processing of personal data supplied by the State to that designated state pursuant to the relevant European Union or international instrument.</p>
123	<p>[Section 123]</p> <p><u>Application of Data Protection Act 1998 - [Insertion into Section 9(1E)(e)]</u></p> <p>The Commissioner may receive information from the data protection authority of a designated state arising from the performance by it of the functions referred to in paragraph (d) with regard to the processing of the personal data concerned.</p>
123	<p>[Section 123]</p> <p><u>Application of Data Protection Act 1998 - [Insertion into Section 9(1E)(f)]</u></p> <p>The Commissioner shall, at the request of the data protection authority of a designated state, perform his or her functions under paragraphs (a) to (c) of this subsection and he or she shall furnish information to that authority with regard to the processing of the personal data the subject of the request.”.</p>
125	<p>[Section 125(9)(a)(ii)]</p> <p>The Data Protection Commissioner or the Circuit Court, on application made to the Commissioner or the Court in that behalf, is satisfied that the note may be removed.</p>
130	<p>[Section 130]</p> <p><u>Amendment of Section 77(5) of the Criminal Justice Mutual Assistance Act 2008 - [Section 77(5)(b)(ba)]</u></p> <p>In the case of a request pursuant to Article 7 of the 2008 Council Decision, or that Article insofar as it is applied by Article 1 of the 2009 Agreement with Iceland and Norway, for the DNA profile of a person who is suspected of having committed the offence concerned whose DNA profile is not in the possession of the appropriate authority, a statement issued by the Commissioner of the Garda Síochána or the Director of Public Prosecutions, as may be appropriate, confirming that the requirements for the taking of a DNA sample from the person under the law of the State would be complied with if the person were in the State, and.</p>
132	<p>[Section 132]</p> <p><u>Amendment of Section 79 of the Criminal Justice Mutual Assistance Act 2008 – [Section 132(b)(i)]</u></p> <p>The substitution of “the identification evidence requested is not in the possession of the Garda Síochána and subject to section 79A, the Commissioner shall instruct” for “the identification evidence requested is not in the possession of the Garda Síochána, the Commissioner shall instruct”</p>
132	<p>[Section 132]</p> <p><u>Amendment of Section 79 of the Criminal Justice Mutual Assistance Act 2008 – [Section 132(h)(11)]</u></p> <p>Amendment of 79 of the Criminal Justice Mutual Assistance Act 2008 - (11) The Minister may, at the request of the requesting authority and having consulted the Commissioner, direct that the retention period in respect of identification</p>

	evidence transmitted to the requesting authority be extended in accordance with an order made under subsection (11A).”
132	<p><u>[Section 132]</u></p> <p><u>Amendment of Section 79 of the Criminal Justice Mutual Assistance Act 2008 – [Section 132(i)(11A)]</u></p> <p>Amendment of 79 of the Criminal Justice Mutual Assistance Act 2008 - (11A) If a judge of the District Court is satisfied, on an application in that behalf by the Commissioner, that there is good reason why identification evidence transmitted pursuant to a request should not be destroyed by the requesting authority in accordance with subsection (10), or a request to do so under subsection (11R), the judge may make an order authorising the retention of the identification evidence for such purpose permitted by this section for such period as he or she considers appropriate.</p>
132	<p><u>[Section 132]</u></p> <p><u>Amendment of Section 79 of the Criminal Justice Mutual Assistance Act 2008 – [Section 132(i)(11B)]</u></p> <p>Amendment of 79 of the Criminal Justice Mutual Assistance Act 2008 - (11B) If the Commissioner intends to make an application under subsection (11A), he or she shall inform by notice in writing the person from whom the identification evidence concerned was taken, and any person who gave consent to the taking of that identification evidence from that person, of that intention.</p>
132	<p><u>[Section 132]</u></p> <p><u>Amendment of Section 79 of the Criminal Justice Mutual Assistance Act 2008 – [Section 132(i)(11R)]</u></p> <p>Amendment of 79 of the Criminal Justice Mutual Assistance Act 2008 - (11R) If the identification evidence taken under this section and transmitted pursuant to a request relates to a person who was not, at the time the evidence was taken, suspected of having committed the offence concerned in the designated state concerned, the person, or another person who gave consent to the taking of the identification evidence from the person, may by notice in writing sent or given to the Commissioner request the destruction of the evidence.</p>
132	<p><u>[Section 132]</u></p> <p><u>Amendment of Section 79 of the Criminal Justice Mutual Assistance Act 2008 – [Section 132(i)(11S)]</u></p> <p>Amendment of 79 of the Criminal Justice Mutual Assistance Act 2008 - (11S) The Commissioner shall, following the receipt of a notice under subsection (11R), inform the Minister of it and the Minister shall, subject to an order made under subsection (11A), request the requesting authority to which the identification evidence concerned was transmitted to destroy the evidence as soon as practicable and, in any event, to do so not more than 4 months after the receipt by the Commissioner of the notice under subsection (11R).</p>
133	<p><u>[Section 133]</u></p> <p><u>Insertion of Section 79A into the Criminal Justice Mutual Assistance Act 2008 – [Section 79A(2)(a)-(d)]</u></p> <p>Insertion of Section 79A of the Criminal Justice Mutual Assistance Act 2008 - The Commissioner shall instruct a member of the Garda Síochána to inform the person whose DNA profile is sought pursuant to the request of certain things under subsection 2(a)-(d)</p>
139	<p><u>[Section 139(b)(1L)]</u></p> <p><u>Amendment of Section 50 of the International Criminal Court Act 2006</u></p>

	<p>If identification evidence taken under this section and transmitted pursuant to a request relates to a person who was not, at the time the evidence was taken, suspected of having committed the ICC offence concerned, the person, or another person who gave consent to the taking of the identification evidence from the person, may by notice in writing sent or given to the Commissioner request the destruction of the evidence.</p>
139	<p><u>[Section 139(b)(1M)]</u> <u>Amendment of Section 50 of the International Criminal Court Act 2006</u></p> <p>The Commissioner shall, following the receipt of a notice under subsection (1L), inform the Minister of it and the Minister shall, subject to an order made under subsection (13A), request the Court to which the evidence concerned was transmitted to destroy the evidence as soon as practicable and, in any event, to do so not more than 4 months after the receipt by the Commissioner of the notice under subsection (1L).</p>
139	<p><u>[Section 139(i)(13)]</u> <u>Amendment of Section 50 of the International Criminal Court Act 2006</u></p> <p>The Minister may, at the request of the Court and having consulted the Commissioner, direct that the retention period in respect of identification evidence transmitted to the Court be extended in accordance with an order made under subsection (13A)</p>
139	<p><u>[Section 139(j)(13A)]</u> <u>Amendment of Section 50 of the International Criminal Court Act 2006</u></p> <p>If a judge of the District Court is satisfied, on an application in that behalf by the Commissioner, that there is good reason why identification evidence transmitted pursuant to a request should not be destroyed by the Court in accordance with subsection (12), or a request to do so under subsection (1L), the judge may make an order authorising the retention of the identification evidence for such purpose permitted by this section for such period as he or she considers appropriate.</p>
139	<p><u>[Section 139(j)(13B)]</u> <u>Amendment of Section 50 of the International Criminal Court Act 2006</u></p> <p>If the Commissioner intends to make an application under subsection (13A), he or she shall inform by notice in writing the person from whom the identification evidence concerned was taken, and any person who gave consent to the taking of that identification evidence from that person, of that intention.</p>
142	<p><u>[Section 142(1)]</u></p> <p>Subject to subsections (2) and (3), the Commissioner may obtain from the Director of FSI and transmit a DNA profile of a person that is entered in the missing and unknown persons index of the DNA Database System to a law enforcement agency for the purpose of the law enforcement agency conducting a search by comparing the DNA profile with DNA profiles held by it and informing the Commissioner of the outcome of that search</p>
142	<p><u>[Section 142(2)]</u></p> <p>A DNA profile transmitted by the Commissioner under subsection (1) to a law enforcement agency shall be used by the law enforcement agency only for the purpose specified in that subsection.</p>
142	<p><u>[Section 142(3)]</u></p> <p>When transmitting a DNA profile of a person under subsection (1) to a law enforcement agency, the Commissioner may specify conditions regarding (a)</p>

	the number and frequency of searches that may be conducted by the law enforcement agency to compare the DNA profile with DNA profiles held by it, and (b) the arrangements for the return, or destruction, of the DNA profile.
143	<u>[Section 143(1)]</u> Subject to subsections (2) and (3), the Commissioner may receive from a law enforcement agency in a designated state (including the International Criminal Police Organisation (Interpol)) a DNA profile of a person
143	<u>[Section 143(2)]</u> If, on a comparison of a DNA profile entered in the DNA Database System under subsection (1) with other DNA profiles in that System in accordance with section 68 a match of DNA profiles is found, the Commissioner shall inform the law enforcement agency that supplied the DNA profile of the match.
143	<u>[Section 143(3)]</u> The Commissioner may, in relation to a matching DNA profile referred to in subsection (2), provide particulars of the identity of the person to whom the matching DNA profile relates to the law enforcement agency concerned.
143	<u>[Section 143(4)(b)]</u> A DNA profile entered in the DNA Database System under subsection (1) May be retained in that System for the purpose of conducting such number of comparisons of it with other DNA profiles in that System under that section, and at such frequency, as may be specified by or agreed with the law enforcement agency that supplied the DNA profile to the Commissioner.
143	<u>[Section 143(5)]</u> A DNA profile entered in the DNA Database System under subsection (1) shall be removed from that System in accordance with any condition to do so specified by the law enforcement agency that supplied the DNA profile to the Commissioner.
144	<u>[Section 144(1)]</u> Subject to subsections (2) and (3), the Commissioner may receive a DNA profile of a person from a law enforcement agency in a place other than a designated state (including the International Criminal Police Organisation (Interpol))—
144	<u>[Section 144(2)]</u> If, on a comparison of a DNA profile entered in the DNA Database System under subsection (1) with other DNA profiles in that System in accordance with section 68 a match of DNA profiles is found, the Commissioner shall inform the law enforcement agency that supplied the DNA profile of the match.
144	<u>[Section 144(3)]</u> If the matching DNA profile referred to in subsection (2) is in respect of a missing person, a seriously ill, or severely injured, person or a deceased person, the Commissioner may provide particulars of the identity of the person to the law enforcement agency concerned.
144	<u>[Section 144(4)(b)]</u> A DNA profile entered in the DNA Database System under may be retained in that System for the purpose of conducting such number of comparisons of it with other DNA profiles in that System under that section, and at such frequency, as may be specified by or agreed with the law enforcement agency that supplied the DNA profile to the Commissioner.

144	<p><u>[Section 144(5)]</u></p> <p>A DNA profile entered in the DNA Database System under subsection (1) shall be removed from that System in accordance with any condition to do so specified by the law enforcement agency that supplied the DNA profile to the Commissioner.</p>
145	<p><u>[Section 145(1)]</u></p> <p>The Commissioner may arrange for evidence taken from a crime scene (including crime scene samples) received from a law enforcement agency to be compared with intimate samples and non-intimate samples taken under this Act for the purposes of the investigation of criminal offences in a place (whether within or outside the State).</p>
145	<p><u>[Section 145(2)]</u></p> <p>The Commissioner may provide to the law enforcement agency that supplied the evidence from a crime scene under subsection (1) information relating to the results of any comparison of it with intimate samples and non-intimate samples taken under this Act other than information relating to the identity of any person from whom an intimate sample or a non-intimate sample was taken under this Act.</p>
145	<p><u>[Section 145(3)]</u></p> <p>The Director of FSI shall compare, or arrange for the comparison of, any evidence sent to him or her by the Commissioner under subsection (1) with any intimate samples or non intimate samples taken under this Act that are in his or her possession.</p>
152	<p><u>[Section 152(1)]</u></p> <p>The Commissioner may, in writing, delegate any of his or her functions under this Act</p>
157	<p><u>[Section 157(1)]</u></p> <p>The Commissioner shall, as soon as practicable after the commencement of this section and following consultation with the Director of FSI, prepare for submission to the Minister a draft code of practice for the purposes of providing practical guidance as to the procedures regarding the taking of samples</p>
158	<p><u>[Section 158(1)]</u></p> <p>As soon as practicable after the commencement of this section, the Director of FSI, the Commissioner and the Ombudsman Commission shall, by written protocols, make arrangements concerning certain matters</p>

DNA Forms

**Criminal Justice
(Forensic Evidence and DNA Database System) Act 2014**

Section 10(2): Certificate provided by a registered medical practitioner concluding if a person is or is not a protected person, pursuant to section 10(2) of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014

I, _____, a registered medical practitioner, have at the request of _____, (rank) _____, a member of An Garda Síochána, assessed the condition of (name) _____, (DOB) ___/___/___, of (address) _____, a person detained at _____ Garda Station under the provisions of section 9(1), namely

- (a) section 30 of the Act of 1939 *
- (b) section 4 of the Act of 1984 *
- (c) section 2 of the Act of 1996 *
- (d) section 42 of the Criminal Justice Act 1999 *
- (e) section 50 of the Act of 2007 *
- (f) section 16 or 17 of the Criminal Procedure Act 2010 *

****delete as appropriate***

for the offence of _____, a relevant offence.

I am satisfied that (name) _____ does / does not by reason of a mental or physical disability:

- (a) lack the capacity to understand the general nature and effect of the taking of a sample from him or her, or
- (b) lack the capacity to indicate (by speech, sign language or any other means of communication) whether or not he or she consents to a sample being taken from him her.

The following are the reasons for concluding that the above mentioned person is / is not a protected person:

Signed: _____

Registered Medical Practitioner

(Time) _____ **(Date)** ___/___/___

**Criminal Justice
(Forensic Evidence and DNA Database System) Act 2014**

Section 11(2): Form of authorisation for the taking of a sample from a person in custody of An Garda Síochána for the purpose of the DNA Database System, pursuant to section 11(2) of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014

I, _____, being a member of An Garda Síochána not below the rank of Sergeant, authorise the taking of a sample from (name) _____, (DOB) ___/___/_____, of (address) _____, who is detained at _____ Garda Station under the provisions of section 9(1), namely

- (a) section 30 of the Act of 1939 *
- (b) section 4 of the Act of 1984 *
- (c) section 2 of the Act of 1996
- (d) section 42 of the Criminal Justice Act 1999 *
- (e) section 50 of the Act of 2007 *
- (f) section 16 or 17 of the Criminal Procedure Act 2010 *

**delete as appropriate*

for the offence of _____, a relevant offence, for the purpose of generating a DNA profile in respect of the person to be entered in the reference index of the DNA Database System.

Time: _____

Date: _____

Signed: _____
()

Rank: _____

**Criminal Justice
(Forensic Evidence and DNA Database System) Act 2014**

Section 11(2): Form of authorisation for the taking of a second sample from a person in custody of An Garda Síochána for the purpose of the DNA Database System, pursuant to *section 11(2)* of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014

I, _____, being a member of An Garda Síochána not below the rank of Sergeant, authorise the taking of a second sample in accordance with *section 25(1)* from (name) _____, (DOB) ____/____/____, of (address) _____, who is currently detained at _____ Garda Station under the provisions of *section 9(1)*, namely

- (a) section 30 of the Act of 1939 *
- (b) section 4 of the Act of 1984 *
- (c) section 2 of the Act of 1996
- (d) section 42 of the Criminal Justice Act 1999 *
- (e) section 50 of the Act of 2007 *
- (f) section 16 or 17 of the Criminal Procedure Act 2010 *

**delete as appropriate*

for the offence of _____, a relevant offence.

I give this authorisation as a previous sample taken under *section 11* from (name) _____ during their current period of detention has proven to be insufficient.

Time: _____

Date: _____

Signed: _____

Rank: _____

(_____)

**Criminal Justice
(Forensic Evidence and DNA Database System) Act 2014**

Section 12(2)(a): Form of authorisation for the taking of an intimate sample from a person in custody of An Garda Síochána, pursuant to section 12(2)(a) of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014

I, _____, being a member of An Garda Síochána not below the rank of Inspector, authorise the taking of an intimate sample from (name) _____, (DOB) ___/___/_____, of (address) _____, who is detained at _____ Garda Station under the provisions of section 9(1), namely

- (a) section 30 of the Act of 1939 *
- (b) section 4 of the Act of 1984 *
- (c) section 2 of the Act of 1996 *
- (d) section 42 of the Criminal Justice Act 1999 *
- (e) section 50 of the Act of 2007 *
- (f) section 16 or 17 of the Criminal Procedure Act 2010 *

****delete as appropriate***

for the offence of _____, a relevant offence, for the purpose of forensic testing, and if appropriate, the generation of a DNA profile in respect of the person to be entered in the reference index of the DNA Database System.

I am satisfied that there are reasonable grounds:

- (a) for suspecting the involvement of the person from whom the sample is to be taken in the commission of the offence in respect of which he or she is detained, and
- (b) for believing that the sample will tend to confirm or disprove the involvement of that person in the commission of the offence concerned.

Time: _____
Signed: _____
 ()

Date: _____
Rank: _____

**Criminal Justice
(Forensic Evidence and DNA Database System) Act 2014**

Section 12(2)(a): Form of authorisation for the taking of a second intimate sample from a person in custody of An Garda Síochána, pursuant to *section 12(2)* of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014.

I, _____, being a member of An Garda Síochána not below the rank of Inspector, authorise the taking of a second intimate sample in accordance with *section 25(1)* from (name) _____, (DOB) ___/___/_____, of (address) _____, who is currently detained at _____ Garda Station under the provisions of *section 9(1)*, namely

- (a) section 30 of the Act of 1939 *
- (b) section 4 of the Act of 1984 *
- (c) section 2 of the Act of 1996 *
- (d) section 42 of the Criminal Justice Act 1999 *
- (e) section 50 of the Act of 2007 *
- (f) section 16 or 17 of the Criminal Procedure Act 2010 *

****delete as appropriate***

for the offence of _____, a relevant offence, for the purpose of forensic testing, and if appropriate, the generation of a DNA profile in respect of the person to be entered in the reference index of the DNA Database System.

I give this authorisation as a previous intimate sample taken under *section 12* from (name) _____ during their current period of detention has proven to be insufficient or was inadequately labelled.

I am satisfied that there are reasonable grounds:

- (a) for suspecting the involvement of the person from whom the sample is to be taken in the commission of the offence in respect of which he or she is detained, and
- (b) for believing that the sample will tend to confirm or disprove the involvement of that person in the commission of the offence concerned.

Time: _____

Date: _____

Signed: _____

Rank: _____

(_____)

**Criminal Justice
(Forensic Evidence and DNA Database System) Act 2014**

Section 12(2)(b): Form of consent for the taking of an intimate sample from a person in custody of An Garda Síochána, pursuant to section 12(2)(b) of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014- consent of person aged 18 and over

I, (name) _____, (DOB) ___/___/_____, of (address) _____
_____, on the (date) ___/___/_____, having been detained
at _____ Garda Station under the provisions of section 9(1), namely

- (a) section 30 of the Act of 1939 *
- (b) section 4 of the Act of 1984 *
- (c) section 2 of the Act of 1996 *
- (d) section 42 of the Criminal Justice Act 1999 *
- (e) section 50 of the Act of 2007 *
- (f) section 16 or 17 of the Criminal Procedure Act 2010 *

**delete as appropriate*

for the offence of _____, a relevant offence, do hereby consent to permit a member of An Garda Síochána / authorised person to take, or cause to be taken, from me an intimate sample for the purpose of forensic testing, and if appropriate, the generation of a DNA profile in respect of me to be entered in the reference index of the DNA Database System.

I have been informed by _____, (rank) _____ of _____
Garda Station of the following:

- (a) the nature of the offence in the commission of which it is suspected that I have been involved;
- (b) that an authorisation to take the sample from me has been given under subsection (2)(a) and the grounds on which it has been given;
- (c) that in a case in which an intimate sample already taken from me has proved to be insufficient—
 - (i) that that sample has proved to be insufficient, and
 - (ii) that either:
 - another authorisation under subsection (2)(a) is not, by virtue of section 3(6), required, or
 - an authorisation to take a second intimate sample from me has, in accordance with section 25(1), been given under subsection (2)(a) and the grounds on which it has been given;
- (d) that the results of the forensic testing of the sample may be given in evidence in any proceedings;
- (e) if appropriate, the matters referred to in subsections (2) and (3) of section 19 if that section is to have effect in relation to me;
- (f) if appropriate, that the sample will be used to generate a DNA profile in respect of me to be entered in the reference index of the DNA Database System and the effect of such an entry;
- (g) that the sample, or the DNA profile generated from the sample in respect of me, may be transmitted or provided to a person or body in connection with the investigation of criminal offences or criminal proceedings (whether within or outside the State) as provided for in or permitted by this Act;
- (h) that the sample may be compared under section 145 with evidence taken from a crime scene (including crime scene samples) received from a law enforcement agency within the meaning of Chapter 7 of Part 12; and
- (i) that the sample may be destroyed, and (if appropriate) the DNA profile in respect of me entered in the reference index of the DNA Database System may be removed from that System, in accordance with Part 10.

Time: _____

Date: _____

Signed: _____

Witnessed: _____

Rank: _____

()

**Criminal Justice
 (Forensic Evidence and DNA Database System) Act 2014**

Section 12(2)(b): Form of consent for the taking of an intimate sample from a person in custody of An Garda Síochána, pursuant to section 12(2)(b) of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014- consent of child (aged 14 and over) and parent / guardian

I, _____, (child 14 years and over), (DOB) ___/___/___, of (address) _____, on the (date) ___/___/___, having been detained at _____ Garda Station under the provisions of section 9(1), namely

- (a) section 30 of the Act of 1939 *
- (b) section 4 of the Act of 1984 *
- (c) section 2 of the Act of 1996 *
- (d) section 42 of the Criminal Justice Act 1999 *
- (e) section 50 of the Act of 2007 *
- (f) section 16 or 17 of the Criminal Procedure Act 2010 *

**delete as appropriate*

for the offence of _____, a relevant offence, do hereby consent to permit a member of An Garda Síochána / authorised person to take, or cause to be taken, from me an intimate sample for the purpose of forensic testing, and if appropriate, the generation of a DNA profile in respect of me to be entered in the reference index of the DNA Database System.

I, _____, parent / guardian, of (child's name) _____, (DOB) ___/___/___, of (address) _____ who, on the (date) ___/___/___, has been detained at _____ Garda Station under the provisions stated above,

for the offence of _____, a relevant offence, do hereby consent to permit a member of An Garda Síochána / authorised person to take, or cause to be taken, from him or her an intimate sample for the purpose of forensic testing, and if appropriate, the generation of a DNA profile in respect of him or her to be entered in the reference index of the DNA Database System.

I have been informed by _____, (rank) _____ of _____ Garda Station of the following:

- (a) the nature of the offence in the commission of which it is suspected that I have been involved;
- (b) that an authorisation to take the sample from me has been given under subsection (2)(a) and the grounds on which it has been given;
- (c) that in a case in which an intimate sample already taken from me has proved to be insufficient—
 - (i) that that sample has proved to be insufficient, and
 - (ii) that either:
 - (I) another authorisation under subsection (2)(a) is not, by virtue of section 3(6), required, or
 - (II) an authorisation to take a second intimate sample from me has, in accordance with section 25(1), been given under subsection (2)(a) and the grounds on which it has been given;
- (d) that the results of the forensic testing of the sample may be given in evidence in any proceedings;
- (e) if appropriate, the matters referred to in subsections (2) and (3) of section 19 if that section is to have effect in relation to me,
- (f) if appropriate, that the sample will be used to generate a DNA profile in respect of me to be entered in the reference index of the DNA Database System and the effect of such an entry;
- (g) that the sample, or the DNA profile generated from the sample in respect of me, may be transmitted or provided to a person or body in connection with the investigation of criminal offences or criminal proceedings (whether within or outside the State) as provided for in or permitted by this Act;
- (h) that the sample may be compared under section 145 with evidence taken from a crime scene (including crime scene samples) received from a law enforcement agency within the meaning of Chapter 7 of Part 12; and
- (i) that the sample may be destroyed, and (if appropriate) the DNA profile in respect of me entered in the reference index of the DNA Database System may be removed from that System, in accordance with Part 10.

Signed: _____ **Date of Birth (_____)** **Witnessed:** _____ **(Parent/Guardian)**
Witnessed: _____ **Rank _____** **Date:** _____

**Criminal Justice
(Forensic Evidence and DNA Database System) Act 2014**

Section 12(2)(b): Form of consent to the taking of an intimate sample from a person in custody of An Garda Síochána, pursuant to section 12(2)(b) of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014 - consent of parent / guardian of child aged under 14

I, _____, (parent/guardian), of (child) _____,
(DOB) ___/___/____, of (address) _____
_____, who on the (date) ___/___/___ has been detained at _____ Garda Station under the provisions of *section 9(1)*, namely

- (a) section 30 of the Act of 1939 *
- (b) section 4 of the Act of 1984 *
- (c) section 2 of the Act of 1996 *
- (d) section 42 of the Criminal Justice Act 1999 *
- (e) section 50 of the Act of 2007 *
- (f) section 16 or 17 of the Criminal Procedure Act 2010 *

**delete as appropriate*

for the offence of _____, a relevant offence, do hereby consent to permit a member of An Garda Síochána / authorised person to take, or cause to be taken, from him / her an intimate sample for the purpose of forensic testing, and if appropriate, the generation of a DNA profile in respect of him her to be entered in the reference index of the DNA Database System.

I have been informed by _____, (rank) _____ of _____ Garda Station of the following:

- (a) the nature of the offence in the commission of which it is suspected that he or she to have been involved;
- (b) that an authorisation to take the sample from him or her has been given under *subsection (2)(a)* and the grounds on which it has been given;
- (c) that in a case in which an intimate sample already taken from him or her has proved to be insufficient—
 - (i) that that sample has proved to be insufficient, and
 - (ii) that either:
 - (I) another authorisation under *subsection (2)(a)* is not, by virtue of *section 3(6)*, required, or
 - (II) an authorisation to take a second intimate sample from him or her has, in accordance with *section 25(1)*, been given under *subsection (2)(a)* and the grounds on which it has been given;
- (d) that the results of the forensic testing of the sample may be given in evidence in any proceedings;
- (e) if appropriate, the matters referred to in *subsections (2) and (3) of section 19* if that section is to have effect in relation to him or her;
- (f) if appropriate, that the sample will be used to generate a DNA profile in respect of him or her to be entered in the reference index of the DNA Database System and the effect of such an entry;
- (g) that the sample, or the DNA profile generated from the sample in respect of him or her, may be transmitted or provided to a person or body in connection with the investigation of criminal offences or criminal proceedings (whether within or outside the State) as provided for in or permitted by this Act;
- (h) that the sample may be compared under *section 145* with evidence taken from a crime scene (including crime scene samples) received from a law enforcement agency within the meaning of *Chapter 7 of Part 12*; and
- (i) that the sample may be destroyed, and (if appropriate) the DNA profile in respect of him or her entered in the reference index of the DNA Database System may be removed from that System, in accordance with *Part 10*.

Signed: _____

Witnessed: _____
()

Date: _____

**Criminal Justice
(Forensic Evidence and DNA Database System) Act 2014**

Section 12(2)(b): Form of consent for the taking of an intimate sample from a person in custody of An Garda Síochána, pursuant to section 12(2)(b) of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014- consent of parent / guardian of protected person

I, _____, parent / guardian, of (protected person's name) _____,
(DOB) ___/___/____, of (address) _____, who, on the (date)
___/___/____, has been detained at _____ Garda Station under the provisions of *section 9(1)*, namely

- (a) section 30 of the Act of 1939 *
- (b) section 4 of the Act of 1984 *
- (c) section 2 of the Act of 1996 *
- (d) section 42 of the Criminal Justice Act 1999 *
- (e) section 50 of the Act of 2007 *
- (f) section 16 or 17 of the Criminal Procedure Act 2010 *

**delete as appropriate*

for the offence of _____, a relevant offence, do hereby consent to permit a member of An Garda Síochána / authorised person to take, or cause to be taken, from him or her an intimate sample for the purpose of forensic testing, and if appropriate, the generation of a DNA profile in respect of him or her to be entered in the reference index of the DNA Database System.

I have been informed by _____ (rank) _____ of _____
Garda Station of the following:

- (a) the nature of the offence in the commission of which it is suspected that he or she to have been involved;
- (b) that an authorisation to take the sample from him or her has been given under *subsection (2)(a)* and the grounds on which it has been given;
- (c) that in a case in which an intimate sample already taken from him her has proved to be insufficient—
 - (i) that that sample has proved to be insufficient, and
 - (ii) that either:
 - (I) another authorisation under *subsection (2)(a)* is not, by virtue of *section 3(6)*, required, or
 - (II) an authorisation to take a second intimate sample from him or her has, in accordance with *section 25(1)*, been given under *subsection (2)(a)* and the grounds on which it has been given;
- (d) that the results of the forensic testing of the sample may be given in evidence in any proceedings;
- (e) if appropriate, the matters referred to in *subsections (2) and (3) of section 19* if that section is to have effect in relation to him and her;
- (f) if appropriate, that the sample will be used to generate a DNA profile in respect of him or her to be entered in the reference index of the DNA Database System and the effect of such an entry;
- (g) that the sample, or the DNA profile generated from the sample in respect of him or her, may be transmitted or provided to a person or body in connection with the investigation of criminal offences or criminal proceedings (whether within or outside the State) as provided for in or permitted by this Act;
- (h) that the sample may be compared under *section 145* with evidence taken from a crime scene (including crime scene samples) received from a law enforcement agency within the meaning of *Chapter 7 of Part 12*; and
- (i) that the sample may be destroyed, and (if appropriate) the DNA profile in respect of him or her entered in the reference index of the DNA Database System may be removed from that System, in accordance with *Part 10*.

Time: _____ **Date:** _____

Signed: _____ **(parent / guardian)**

()

Witnessed: _____ **Rank:** _____

()

**Criminal Justice
(Forensic Evidence and DNA Database System) Act 2014**

Section 12(7): **Withdrawal of consent for the taking of an intimate sample from a person in custody of An Garda Síochána, pursuant to *section 12(7)* of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014 - parent / guardian of child aged under 14**

I, _____, being the parent/guardian of
(child) _____, (DOB) ___/___/____, of
(address) _____,
who on the (date) ___/___/___ has been detained at _____
Garda Station under the provisions of *section 9(1)*, namely

- (a) section 30 of the Act of 1939 *
- (b) section 4 of the Act of 1984 *
- (c) section 2 of the Act of 1996 *
- (d) section 42 of the Criminal Justice Act 1999 *
- (e) section 50 of the Act of 2007 *
- (f) section 16 or 17 of the Criminal Procedure Act 2010 *

**delete as appropriate*

for the offence of _____,
a relevant offence, and having previously given my consent to permit a member of An Garda Síochána / authorised person to take, or cause to be taken, from him / her a sample for the purpose of generating a DNA profile, do hereby withdraw my consent.

Signed: _____

Witnessed: _____

(_____)

Rank: _____

Date: _____

**Criminal Justice
(Forensic Evidence and DNA Database System) Act 2014**

Section 12(7): Withdrawal of consent for the taking of an intimate sample from a person in custody of An Garda Síochána, pursuant to section 12(7) of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014 - child (aged 14 and over) and parent / guardian

I, _____, (child 14 years and over), (DOB) ___/___/___, of (address) _____, on the (date) ___/___/___, having been detained at _____ Garda Station under the provisions of section 9(1), namely

- (a) section 30 of the Act of 1939 *
- (b) section 4 of the Act of 1984 *
- (c) section 2 of the Act of 1996 *
- (d) section 42 of the Criminal Justice Act 1999 *
- (e) section 50 of the Act of 2007 *
- (f) section 16 or 17 of the Criminal Procedure Act 2010 *

****delete as appropriate***

for the offence of _____, a relevant offence, and having previously given my consent to permit a member of An Garda Síochána / authorised person to take, or cause to be taken, from me a sample for the purpose of generating a DNA profile, do hereby withdraw my consent.

I, _____, being the parent / guardian of (child's name) _____, (DOB) ___/___/___, of (address) _____,

who, on the (date) ___/___/___, has been detained at _____ Garda Station under the provisions of section 9(1), namely

- (a) section 30 of the Act of 1939 *
- (b) section 4 of the Act of 1984 *
- (c) section 2 of the Act of 1996 *
- (d) section 42 of the Criminal Justice Act 1999 *
- (e) section 50 of the Act of 2007 *
- (f) section 16 or 17 of the Criminal Procedure Act 2010 *

****delete as appropriate***

for the offence of _____, a relevant offence, and having previously given my consent to permit a member of An Garda Síochána / authorised person to take, or cause to be taken, from him / her a sample for the purpose of generating a DNA profile, do hereby withdraw my consent.

Signed: _____ **Date of Birth (_____)**

Witnessed: _____ **(Parent/Guardian)**

Witnessed: _____ **Rank _____**

(_____)

Date: _____

Criminal Justice (Forensic Evidence and DNA Database System) Act 2014

Section 12(7): **Withdrawal of consent for the taking of an intimate sample from a person in custody of An Garda Síochána, pursuant to section 12(7) of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014 - parent / guardian of protected person**

I, _____, being the parent/guardian of
(protected person) _____, (DOB)
____/____/____, of (address) _____
_____, who on the (date) ____/____/____ has been detained at
_____ Garda Station under the provisions of *section 9(1)*, namely

- (a) section 30 of the Act of 1939 *
- (b) section 4 of the Act of 1984 *
- (c) section 2 of the Act of 1996 *
- (d) section 42 of the Criminal Justice Act 1999 *
- (e) section 50 of the Act of 2007 *
- (f) section 16 or 17 of the Criminal Procedure Act 2010 *

**delete as appropriate*

for the offence of _____,
a relevant offence, and having previously given my consent to permit a member of
An Garda Síochána / authorised person to take, or cause to be taken, from him / her
a sample for the purpose of generating a DNA profile, do hereby withdraw my
consent.

Signed: _____
(_____)

Witnessed: _____

Rank: _____

Date: _____

**Criminal Justice
(Forensic Evidence and DNA Database System) Act 2014**

Section 13(2): Form of authorisation for the taking of a non-intimate sample from a person in custody of An Garda Síochána, pursuant to section 13(2) of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014

I, _____, being a member of An Garda Síochána not below the rank of Inspector, authorise the taking of a non-intimate sample from (name) _____, (DOB) ___/___/___, of (address) _____, who is detained at _____ Garda Station under the provisions of section 9(1), namely

- (a) section 30 of the Act of 1939 *
- (b) section 4 of the Act of 1984 *
- (c) section 2 of the Act of 1996 *
- (d) section 42 of the Criminal Justice Act 1999 *
- (e) section 50 of the Act of 2007 *
- (f) section 16 or 17 of the Criminal Procedure Act 2010 *

****delete as appropriate***

for the offence of _____, a relevant offence, for the purpose of forensic testing, and if appropriate, the generation of a DNA profile in respect of the person to be entered in the reference index of the DNA Database System.

I am satisfied that there are reasonable grounds:

- (a) for suspecting the involvement of the person from whom the sample is to be taken in the commission of the offence in respect of which he or she is detained, and
- (b) for believing that the sample will tend to confirm or disprove the involvement of that person in the commission of the offence concerned.

Time: _____

Date: _____

Signed: _____

Rank: _____

**Criminal Justice
(Forensic Evidence and DNA Database System) Act 2014**

Section 13(2): Form of authorisation for the taking of a second non-intimate sample from a person in custody of An Garda Síochána, pursuant to section 13(2) of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014

I, _____, being a member of An Garda Síochána not below the rank of Inspector, authorise the taking of a second non-intimate sample in accordance with section 25(1) from (name) _____, (DOB) ___/___/___, of (address) _____, who is currently detained at _____ Garda Station under the provisions of section 9(1), namely

- (a) section 30 of the Act of 1939 *
- (b) section 4 of the Act of 1984 *
- (c) section 2 of the Act of 1996 *
- (d) section 42 of the Criminal Justice Act 1999 *
- (e) section 50 of the Act of 2007 *
- (f) section 16 or 17 of the Criminal Procedure Act 2010 *

****delete as appropriate***

for the offence of _____, a relevant offence, for the purpose of forensic testing, and if appropriate, the generation of a DNA profile in respect of the person to be entered in the reference index of the DNA Database System.

I give this authorisation as a previous non-intimate sample taken under section 13 from (name) _____ during their current period of detention has proven to be insufficient or was inadequately labelled.

I am satisfied that there are reasonable grounds:

- (c) for suspecting the involvement of the person from whom the sample is to be taken in the commission of the offence in respect of which he or she is detained, and
- (d) for believing that the sample will tend to confirm or disprove the involvement of that person in the commission of the offence concerned.

Time: _____

Date: _____

Signed: _____

Rank: _____

Criminal Justice
(Forensic Evidence and DNA Database System) Act 2014

Section 19(2): Inferences from refusal to consent, or withdrawal of consent, to the taking of an intimate sample pursuant to section 19 of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014

I,(name) _____,(DOB) ___/___/___, of (address) _____, having been detained on (date) ___/___/___ at _____ Garda Station under the provisions of section 9(1), namely

- (a) section 30 of the Act of 1939 *
- (b) section 4 of the Act of 1984 *
- (c) section 2 of the Act of 1996 *
- (d) section 42 of the Criminal Justice Act 1999 *
- (e) section 50 of the Act of 2007 *
- (f) section 16 or 17 of the Criminal Procedure Act 2010 *

**delete as appropriate*

for the offence of _____, a relevant offence, have been informed by _____, (rank) _____, of _____ Garda Station that:

- (a) a sample was required for the purpose of forensic testing,
- (b) my consent was necessary, and
- (c) if consent is not given, what the effect of a refusal or withdrawal of such consent might be,

I have been informed before such refusal or withdrawal of consent occurred that I have the right to consult a solicitor and, other than where that right was waived, have been afforded an opportunity to so consult before such refusal or withdrawal occurred.

I have also been informed that the seeking of such consent by a member of An Garda Síochána must be recorded by electronic or similar means or that I must consent in writing to it not being so recorded.

I have been cautioned as follows:

“You are not obliged to say anything unless you wish to do so but anything you do say will be taken down in writing and may be given in evidence. As you are aware this request for consent to take an intimate sample pursuant to section 12(2) is being recorded and that such recording may be used in evidence. Do you consent to the taking of an intimate sample as previously outlined to you?”

Answer: Yes / No

Time: _____

Date: _____

Signed: _____

Witnessed: _____

(_____)

(_____)

**Criminal Justice
(Forensic Evidence and DNA Database System) Act 2014**

Section 20(1)(i): Form of authorisation for using a sample taken under section 11 for evidential purposes, pursuant to section 20(1)(i) of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014

I, _____, being a member of An Garda Síochána not below the rank of Inspector, pursuant to section 20, authorise the use of the sample taken for purposes of the DNA Database System under section 11 on (date) ___/___/___ from (name) _____ (dob) ___/___/___ of (address) _____

_____, a person detained at _____ Garda Station under the provisions of section 9(1), namely

- (a) section 30 of the Act of 1939 *
- (b) section 4 of the Act of 1984 *
- (c) section 2 of the Act of 1996 *
- (d) section 42 of the Criminal Justice Act 1999 *
- (e) section 50 of the Act of 2007 *
- (f) section 16 or 17 of the Criminal Procedure Act 2010 *

****delete as appropriate***

for the offence of _____, a relevant offence, for the purpose of forensic testing, and if appropriate, the generation of a DNA profile in respect of the person to be entered in the reference index of the DNA Database System.

I am satisfied that there are reasonable grounds:

- (a) for suspecting the involvement of the person from whom the first mentioned sample was taken in the commission of the offence in respect of which he or she is detained, and
- (b) for believing that that sample will tend to confirm or disprove the involvement of that person in the commission of the offence concerned.

Time: _____

Date: _____

Signed: _____ **Rank:** _____
()

**Criminal Justice
(Forensic Evidence and DNA Database System) Act 2014**

Section 21(4): Form of authorisation for exclusion of parent /guardian / other adult from the place where a sample is being taken from a protected person, pursuant to *section 21(4)* of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014

I, _____, being the member in charge of _____, Garda Station, authorise the exclusion of _____, (parent / guardian / other adult) of (protected person) _____, (DOB) ___/___/_____, of (address) _____, from the place where a sample is being / is to be taken from this person under *Part 2* of the Act.

I am satisfied that:

- (a) the parent or guardian of the protected person, or the other adult who attends at the station, is the victim of the offence in relation to which the protected person is detained, or
- (b) the parent or guardian of the protected person, or the other adult who attends at the station, has been arrested in respect of that offence, or
- (c) there are reasonable grounds for suspecting the parent or guardian of the protected person, or the other adult who attends at the station, of complicity in that offence, or
- (d) there are reasonable grounds for believing that the parent or guardian of the protected person, or the other adult who attends at the station, is likely to obstruct the course of justice.

Time: _____

Date: _____

Signed: _____ **Rank:** _____
()

**Criminal Justice
(Forensic Evidence and DNA Database System) Act 2014**

Section 21(5): Form of authorisation for removal of parent / guardian / other adult from the place where a sample is being taken from a protected person, pursuant to section 21(5) of the Criminal Justice (Forensic Evidence and DNA Systems) Act. 2014

I, _____, being the member in charge of, _____, Garda Station, authorise the removal of _____ (parent / guardian / other adult) of (protected person) _____, (DOB) ___/___/_____, of (address) _____, from the place where a sample is being / is to be taken from this person under *Part 2* of the Act.

I am satisfied that he/she has, without reasonable cause, attempted to obstruct the taking of the sample.

Time: _____
Date: _____
Signed: _____ **Rank:** _____
()

Criminal Justice (Forensic Evidence and DNA Database System) Act 2014

Section 22(4): Form of authorisation for exclusion of parent / guardian / other adult from the place where a sample is being taken from a child, pursuant to *section 22(4)* of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014

I, _____, being the member in charge of _____, Garda Station, authorise the exclusion of _____, (parent / guardian / other adult) of (child) _____, (DOB) ___/___/_____, of (address) _____, from the place where a sample is being / is to be taken from this child from under *Part 2* of the Act.

I am satisfied that:

- (a) the parent or guardian of the child, or the other adult who attends at the station, is the victim of the offence in relation to which the child is detained, or
- (b) the parent or guardian of the child, or the other adult who attends at the station, has been arrested in respect of that offence, or
- (c) there are reasonable grounds for suspecting the parent or guardian of the child, or the other adult who attends at the station, of complicity in that offence, or
- (d) there are reasonable grounds for believing that the parent or guardian of the child, or the other adult who attends at the station, is likely to obstruct the course of justice.

Time: _____

Date: _____

Signed: _____ **Rank:** _____

(_____)

**Criminal Justice
(Forensic Evidence and DNA Database System) Act 2014**

Section 22(5): Form of authorisation for removal of parent / guardian / other adult from the place where a sample is being taken from a child, pursuant to section 22(5) of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014

I, (name) _____, being the member in charge of _____ Garda Station, authorise the removal of _____, (parent / guardian / other adult) of (child) _____, (DOB) ___/___/_____, of (address) _____, from the place where the sample is being / is to be taken from the child under *Part 2* of the Act.

I am satisfied that he/she has, without reasonable cause, attempted to obstruct the taking of the sample.

Time: _____

Date: _____

Signed: _____ **Rank:** _____
()

Criminal Justice (Forensic Evidence and DNA Database System) Act 2014

Section 24(3): Form of authorisation for the using of reasonable force to take a sample under *sections 11 and 13* from a person in custody of An Garda Síochána, pursuant to *section 24(3)* of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014

I, _____, being a member of An Garda Síochána not below the rank of Superintendent, authorise the use of force in the taking of a non-intimate sample from (name) _____, (DOB)___/___/___, of (address) _____, who is detained at _____ Garda Station under the provisions of *section 9(1)*, namely

- (a) section 30 of the Act of 1939 *
- (b) section 4 of the Act of 1984 *
- (c) section 2 of the Act of 1996 *
- (d) section 42 of the Criminal Justice Act 1999 *
- (e) section 50 of the Act of 2007 *
- (f) section 16 or 17 of the Criminal Procedure Act 2010 *

**delete as appropriate*

for the offence of _____, a relevant offence. The person has failed or refused* to allow a sample to be taken. I authorise the use of such force as is reasonably considered necessary to take the sample or to prevent the loss, destruction or contamination of the sample or both.

**delete as appropriate*

Time: _____

Date: _____

Signed: _____ **Rank:** _____

**Criminal Justice
(Forensic Evidence and DNA Database System) Act 2014**

Section 25(3)(i): Form of authorisation for re-taking of samples under Part 2 of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014 in certain circumstances, pursuant to section 25(3)(i)

I, _____, being a member of An Garda Síochána not below the rank of Superintendent, authorise the re-taking of a non-intimate sample from (name) _____, (DOB) ___/___/____, of (address) _____, a person who was detained at _____ Garda Station under the provisions of section 9(1), namely

- (a) section 30 of the Act of 1939 *
- (b) section 4 of the Act of 1984 *
- (c) section 2 of the Act of 1996 *
- (d) section 42 of the Criminal Justice Act 1999 *
- (e) section 50 of the Act of 2007 *
- (f) section 16 or 17 of the Criminal Procedure Act 2010 *

****delete as appropriate***

for the offence of _____, a relevant offence, on the (date) ___/___/____ (within the past 6 months).

While detained, a non-intimate sample was taken from him / her and he / she was released without any charge being made against him / her. I am satisfied that the initial sample taken was proved to be insufficient / inadequately labelled.

I am satisfied that there are reasonable grounds:

- (a) for suspecting the involvement of the person from whom the first non-intimate sample concerned was taken in the offence in respect of which he or she was detained when that sample was taken, and
- (b) for believing that a second non-intimate sample will tend to confirm or disprove the involvement of that person in that offence.

Time: _____

Date: _____

Signed: _____

Rank: _____

(_____)

**Criminal Justice
(Forensic Evidence and DNA Database System) Act 2014**

Section 25(6): Notice to attend a Garda Síochána station for re-taking of a sample under Part 2 of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014 in certain circumstances, pursuant to section 25(6)

I, _____, a member of An Garda Síochána attached to _____ Garda Station, hereby inform you, (name) _____, (DOB) ___/___/___, of (address) _____, a person previously detained on (date) ___/___/___ at _____ Garda Station under the provisions of section 9(1), namely

- (a) section 30 of the Act of 1939 *
- (b) section 4 of the Act of 1984 *
- (c) section 2 of the Act of 1996 *
- (d) section 42 of the Criminal Justice Act 1999 *
- (e) section 50 of the Act of 2007 *
- (f) section 16 or 17 of the Criminal Procedure Act 2010 *

****delete as appropriate***

for the offence of _____, a relevant offence, and having had a sample taken under section 13(2) during this detention, that the sample taken from you was proved to be insufficient / inadequately labelled.

You are now required to attend _____ Garda Station within a period of not less than 10 working days:

- on/between (date _____/dates _____)
- at/between (time _____/time _____)

for the purpose of having a second non-intimate sample taken from you.

Signed: _____ **Rank:** _____
()

Date: _____

**Criminal Justice
(Forensic Evidence and DNA Database System) Act 2014**

Section 25(6): Notice to attend a Garda Síochána station for re-taking of a sample under *Part 2* of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014 in certain circumstance, pursuant to *section 25(6)*- notice to parent / guardian of child

I, _____, a member of An Garda Síochána attached to _____ Garda Station, hereby inform you, _____, (parent / guardian) of (child) _____, (DOB) ___/___/___, of (address) _____, a person previously detained on (date) ___/___/___ at _____ Garda Station under the provisions of *section 9(1)*, namely

- (a) section 30 of the Act of 1939 *
- (b) section 4 of the Act of 1984 *
- (c) section 2 of the Act of 1996 *
- (d) section 42 of the Criminal Justice Act 1999 *
- (e) section 50 of the Act of 2007 *
- (f) section 16 or 17 of the Criminal Procedure Act 2010 *

****delete as appropriate***

for the offence of _____, a relevant offence, and having had a sample taken under *section 13(2)* during this detention, that the sample taken from him or her was proved to be insufficient / inadequately labelled.

(Name of child) _____ is now required to attend _____ Garda Station within a period of not less than 10 working days:

- on/between (date _____/dates _____)
- at/between (time _____/time _____)

for the purpose of having a second non-intimate sample taken from him or her.

Signed: _____ **Rank:** _____
(_____)

Date: _____

**Criminal Justice
(Forensic Evidence and DNA Database System) Act 2014**

Section 25(6): Notice to attend a Garda Síochána station for re-taking of a sample under Part 2 of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014 in certain circumstance, pursuant to section 25(6) - notice to parent / guardian of protected person

I, _____, a member of An Garda Síochána attached to _____ Garda Station, hereby inform you, _____ (parent / guardian) of (protected person) _____, (DOB) ___/___/___, of (address) _____, a person previously detained on (date) ___/___/___ at _____ Garda Station under the provisions of section 9(1), namely

- (a) section 30 of the Act of 1939 *
- (b) section 4 of the Act of 1984 *
- (c) section 2 of the Act of 1996 *
- (d) section 42 of the Criminal Justice Act 1999 *
- (e) section 50 of the Act of 2007 *
- (f) section 16 or 17 of the Criminal Procedure Act 2010 *

****delete as appropriate***

for the offence of _____, a relevant offence, and having had a sample taken under section 13(2) during this detention, that the sample taken from him or her was proved to be insufficient / inadequately labelled.

(Name of protected person) _____ is now required to attend _____ Garda Station within a period of not less than 10 working days:

- on/between (date _____ /dates _____)
- at/between (time _____ /time _____)

for the purpose of having a second non-intimate sample taken from him or her.

Signed: _____ **Rank:** _____
(_____)

Date: _____

Criminal Justice (Forensic Evidence and DNA Database System) Act 2014

Section 27(4): Form of consent for the taking of a sample from a volunteer to generate a DNA profile, pursuant to *section 27(4)* of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014

I, (volunteer) _____, (DOB) ___/___/_____,
of (address) _____, on the
(date) ___/___/_____, do hereby consent to permit a member of An Garda Síochána / authorised person to take, or cause to be taken, from me a non-intimate sample for the purposes of generating a DNA profile in respect of me in relation to:

(a) the investigation of a particular offence, namely (details of offence including date/time/location) _____
_____ ,

or

(b) the investigation of a particular incident that may have involved the commission of an offence, namely (details of incident including date/time/location) _____
_____ ,

Signed: _____
()

Witnessed _____ Rank: _____
()

Date: _____

**Criminal Justice
(Forensic Evidence and DNA Database System) Act 2014**

Section 27(4): Form of consent for the taking of a sample from a volunteer to generate a DNA profile, pursuant to section 27(4) of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014- consent of parent / guardian of child aged under 14

I, _____, being the parent / guardian of _____, (DOB) ___/___/___, of (address) _____, on the (date) ___/___/___, do hereby consent to permit a member of An Garda Síochána / authorised person to take, or cause to be taken, from (child) _____ a non-intimate sample for the purposes of generating a DNA profile in respect of him or her in relation to:

- (a) the investigation of a particular offence, namely (details of offence including date/time/location) _____,
_____,
or
(b) the investigation of a particular incident that may have involved the commission of an offence, namely (details of incident including date/time/location) _____,
_____.

The volunteer has been informed that:

- (a) the volunteer is not obliged to have the sample taken from him or her;
(b) in a case in which a sample already taken under this section from the volunteer has proved to be insufficient or was inadequately labelled or for any other reason mentioned in section 30 a second or further sample is required to be taken from him or her -
(i) that the first-mentioned sample has proved to be insufficient, was inadequately labelled or that other reason for requiring a second or further sample under this section to be taken, as may be appropriate, and
(ii) that a second or further sample is, in accordance with section 30, to be taken from him or her;
(c) the sample will be used to generate a DNA profile in respect of the volunteer for the purposes of the investigation of the offence, or incident that may have involved the commission of an offence, in relation to which it is being taken; and
(d) the sample and the DNA profile generated from the sample in respect of the volunteer may be destroyed in accordance with Part 10.

Signed: _____ **Parent / Guardian**

()

Witnessed _____ **Rank:** _____

()

Date: _____

**Criminal Justice
(Forensic Evidence and DNA Database System) Act 2014**

Section 27(4): Form of consent for the taking of a sample from a volunteer to generate a DNA profile, pursuant to section 27 of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014- consent of parent / guardian of protected person

I, _____, being the parent / guardian of _____, (DOB) ___/___/_____, of (address) _____, on the (date) ___/___/_____, do hereby consent to permit a member of An Garda Síochána / authorised person to take, or cause to be taken, from (protected person) _____ a non-intimate sample for the purposes of generating a DNA profile in respect of him or her in relation to:

- (a) the investigation of a particular offence, namely (details of offence including date/time/location)

_____,
or

- (b) the investigation of a particular incident that may have involved the commission of an offence, namely (details of incident including date/time/location) _____

The volunteer has been informed that:

- (a) the volunteer is not obliged to have the sample taken from him or her;
- (b) in a case in which a sample already taken under this section from the volunteer has proved to be insufficient or was inadequately labelled or for any other reason mentioned in *section 30* a second or further sample is required to be taken from him or her -
- (i) that the first-mentioned sample has proved to be insufficient, was inadequately labelled or that other reason for requiring a second or further sample under this section to be taken, as may be appropriate, and
- (ii) that a second or further sample is, in accordance with *section 30*, to be taken from him or her;
- (c) the sample will be used to generate a DNA profile in respect of the volunteer for the purposes of the investigation of the offence, or incident that may have involved the commission of an offence, in relation to which it is being taken; and
- (d) the sample and the DNA profile generated from the sample in respect of the volunteer may be destroyed in accordance with *Part 10*.

Signed: _____ **Parent / Guardian**

()

Witnessed _____ **Rank:** _____

()

Date: _____

Criminal Justice (Forensic Evidence and DNA Database System) Act 2014

Section 27(8): Withdrawal of consent for the taking of a sample from a volunteer to generate a DNA profile, pursuant to *section 27(8)* of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014

I, (volunteer) _____, (DOB) ___/___/_____,
of (address) _____, having
previously consented to the taking of a sample from me for the purpose of
generating a DNA profile in respect of me in relation to:

(a) the investigation of a particular offence, namely (details of offence including
date/time/location) _____
_____, or

(b) the investigation of a particular incident that may have involved the
commission of an offence, namely (details of incident including
date/time/location) _____

do hereby withdraw my consent.

Signed: _____
()

Witnessed _____ Rank: _____
()

Date: _____

**Criminal Justice
(Forensic Evidence and DNA Database System) Act 2014**

Section 27(8): Withdrawal of consent for the taking of a sample from a volunteer to generate a DNA profile, pursuant to *section 27(8)* of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014 - parent / guardian of child aged under 14

I, _____, being the parent / guardian of (child) _____, (DOB) ___/___/____, of (address) _____, having previously consented to the taking of a sample from (child) _____ on the (date) ___/___/____ for the purpose of generating a DNA profile in respect of him / her in relation to:

(a) the investigation of a particular offence, namely (details of offence including date/time/location) _____, or

(b) the investigation of a particular incident that may have involved the commission of an offence, namely (details of incident including date/time/location) _____,

do hereby withdraw my consent.

Signed: _____
()

Witnessed _____ **Rank:** _____
()

Date: _____

**Criminal Justice
(Forensic Evidence and DNA Database System) Act 2014**

Section 27(8): **Withdrawal of consent for the taking of a sample from a volunteer to generate a DNA profile, pursuant to section 27(8) of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014 - child aged 14 and over or parent / guardian**

I, (volunteer) _____, (DOB) ___/___/____, of (address) _____, having previously consented to the taking of a sample from me on the (date) ___/___/____ for the purpose of generating a DNA profile in respect of me in relation to,

(a) the investigation of a particular offence, namely (details of offence including date/time/location) _____, or

(b) the investigation of a particular incident that may have involved the commission of an offence, namely (details of incident including date/time/location) _____,

do hereby withdraw my consent.

I, _____, being the parent / guardian of (child) _____, (DOB) ___/___/____, of (address) _____, having previously consented to the taking of a sample from (child) _____ on the (date) ___/___/____ for the purpose of generating a DNA profile in respect of him / her in relation to:

(c) the investigation of a particular offence, namely (details of offence including date/time/location) _____, or

(d) the investigation of a particular incident that may have involved the commission of an offence, namely (details of incident including date/time/location) _____,

do hereby withdraw my consent.

Signed: _____ **Child 14 and over**

Signed: _____ **Parent / Guardian**
()

Witnessed _____ **Rank:** _____
()

Date: _____

**Criminal Justice
(Forensic Evidence and DNA Database System) Act 2014**

Section 27(8): **Withdrawal of consent for the taking of a sample from a volunteer to generate a DNA profile, pursuant to *section 27(8)* of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014 - parent / guardian of protected person**

I, _____, being the parent / guardian of (protected person) _____, (DOB) ___/___/_____, of (address) _____, having previously consented to the taking of a sample from (protected person) _____ on the (date) ___/___/_____ for the purpose of generating a DNA profile in respect of him / her in relation to:

(a) the investigation of a particular offence, namely (details of offence including date/time/location) _____, or

(b) the investigation of a particular incident that may have involved the commission of an offence, namely (details of incident including date/time/location) _____,

do hereby withdraw my consent.

Signed: _____
()

Witnessed _____ **Rank:** _____
()

Date: _____

Criminal Justice (Forensic Evidence and DNA Database System) Act 2014

Section 28(3): Form of consent of a volunteer for entry of his or her DNA profile in the reference index of the DNA Database System, pursuant to *section 28(3)* of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014

I, (volunteer) _____, (DOB) ___/___/_____,
of (address) _____,
on the (date) ___/___/_____, do hereby consent to the entry of my DNA profile,
generated from the sample taken from me under *section 27* on (date)
___/___/_____, in the reference index of the DNA Database System.

I have been informed by _____, (Sergeant)
of _____ Garda Station that:

- (a) I am not obliged to consent to my DNA profile being entered in the reference index of the DNA Database System;
- (b) the effect of the entry of the DNA profile in that index of that System; and
- (c) the sample taken from me under *section 27* may be destroyed if not previously destroyed, and my DNA profile entered in the reference index of the DNA Database System may be removed from that System, in accordance with *Part 10*.

Signed: _____
()

Witnessed _____ Sergeant
()

Date: _____

**Criminal Justice
(Forensic Evidence and DNA Database System) Act 2014**

Section 29(2): Form of authorisation for the taking of samples for mass screening, pursuant to section 29(2) of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014

I, _____, being a member of An Garda Síochána not below the rank of Chief Superintendent, authorise the mass screening of a class of persons in accordance with section 29 for the purposes of the investigation of a relevant particular offence, namely _____
_____.

The class of persons shall be determined by reference to one or more of the following:

- (a) the sex of the persons;
- (b) the age of the persons;
- (c) the kinship of the persons;
- (d) a geographic area in which the persons reside or work;
- (e) a period of time during which the persons did anything or were at any place;
- (f) such other matter as the member of the Garda Síochána giving the authorisation for the mass screening concerned considers appropriate.

The class of person required is outlined as follows:

I am satisfied that there are reasonable grounds for believing that the mass screening of this class of persons:

- (a) is likely to further the investigation of the offence, and
- (b) is a reasonable and proportionate measure to be taken in the investigation of the offence.

Time: _____

Date: _____

Signed: _____ Chief Superintendent

**Criminal Justice
(Forensic Evidence and DNA Database System) Act 2014**

Section 29(5): Form of consent for the taking of a sample for mass screening, pursuant to *section 29(5)* of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014

I, (name) _____, (DOB) ___/___/_____,
of (address) _____, on the (date)
___/___/_____, do hereby consent to permit a member of An Garda Síochána/authorised person to take, or cause to be taken, from me a sample in respect of *section 29* for the purposes of generating a DNA profile in respect of me.

I am aware that Chief Superintendent _____ of
_____ Garda Station has given authorisation on (date)
___/___/_____ for the mass screening of a class of persons for the purposes of the investigation of a particular relevant offence, namely _____
_____.

Signed: _____

Witnessed _____ **Rank** _____
()

Date: _____

**Criminal Justice
(Forensic Evidence and DNA Database System) Act 2014**

Section 29(5): Form of consent for the taking of a sample for mass screening, pursuant to *section 29(5)* of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014 – consent of parent / guardian of child aged under 14

I, _____, being the parent / guardian of _____, (DOB) ___/___/_____, of (address) _____, on the (date) ___/___/_____, do hereby consent to permit a member of An Garda Síochána / authorised person to take, or cause to be taken, from (child) _____ a sample in respect of *section 29* for the purposes of generating a DNA profile in respect of him or her.

I am aware that Chief Superintendent _____ of _____ Garda Station has given authorisation on (date) ___/___/_____ for the mass screening of a class of persons for the purposes of the investigation of a particular relevant offence, namely _____.

The person has been informed of the following prior to seeking their consent:

- (a) that an authorisation for a mass screening has been given under *subsection (2)* and that the person is one of the class of persons to whom it applies;
- (b) the purpose of the mass screening that has been authorised;
- (c) that the person is not obliged to have the sample taken from him or her;
- (d) in a case in which a sample already taken under this section from the person has proved to be insufficient or was inadequately labelled or for any other reason mentioned in *section 30* a second or further sample is required to be taken from him or her -
 - (i) that the first-mentioned sample has proved to be insufficient, was inadequately labelled or that other reason for requiring a second or further sample under this section to be taken, as may be appropriate,
 - (ii) a second or further sample is, in accordance with *section 30*, to be taken from him or her;
- (e) that the sample will be used to generate a DNA profile in respect of the person for the purposes of the investigation of the particular relevant offence in relation to which the sample is being taken;
- (f) that the sample and the DNA profile generated from the sample in respect of the person may be destroyed in accordance with *Part 10*.

Signed: _____ **Parent / Guardian**

Witnessed _____ **Rank** _____

()

Date: _____

Criminal Justice
(Forensic Evidence and DNA Database System) Act 2014

Section 29(5): Form of consent for the taking of a sample for mass screening, pursuant to section 29(5) of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014 – consent of child aged 14 and over and consent of parent / guardian

I, (name) _____, (DOB) ___/___/___, of (address) _____, on the (date) ___/___/___, do hereby consent to permit a member of An Garda Síochána / authorised person to take, or cause to be taken, from me a sample in respect of section 29 for the purposes of generating a DNA profile in respect of me.

I am aware that Chief Superintendent _____ of _____ Garda Station has given authorisation on (date) ___/___/___ for the mass screening of a class of persons for the purposes of the investigation of a particular relevant offence, namely _____.

I, _____, being the parent / guardian of (child) _____, (DOB) ___/___/___, of (address) _____, on the (date) ___/___/___, do hereby consent to permit a member of An Garda Síochána / authorised person to take, or cause to be taken, from (child) _____ a non-intimate sample for the purposes of generating a DNA profile in respect of him or her.

I am aware that Chief Superintendent _____ of _____ Garda Station has given authorisation on (date) ___/___/___ for the mass screening of a class of persons for the purposes of the investigation of a particular relevant offence, namely _____.

The person has been informed of the following prior to seeking their consent:

- (a) that an authorisation for a mass screening has been given under *subsection (2)* and that the person is one of the class of persons to whom it applies;
- (b) the purpose of the mass screening that has been authorised;
- (c) that the person is not obliged to have the sample taken from him or her;
- (d) in a case in which a sample already taken under this section from the person has proved to be insufficient or was inadequately labelled or for any other reason mentioned in *section 30* a second or further sample is required to be taken from him or her -
 - (i) that the first-mentioned sample has proved to be insufficient, was inadequately labelled or that other reason for requiring a second or further sample under this section to be taken, as may be appropriate,
 - (ii) a second or further sample is, in accordance with *section 30*, to be taken from him or her;
- (e) that the sample will be used to generate a DNA profile in respect of the person for the purposes of the investigation of the particular relevant offence in relation to which the sample is being taken;
- (f) that the sample and the DNA profile generated from the sample in respect of the person may be destroyed in accordance with *Part 10*.

Signed: _____ **Child 14 and over**

Signed: _____ **Parent / Guardian**

()

Witnessed _____ **Rank:** _____

()

Date: _____

**Criminal Justice
(Forensic Evidence and DNA Database System) Act 2014**

Section 29(5): Form of consent for the taking of a sample for mass screening, pursuant to section 29(5) of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014 – consent of parent / guardian of protected person

I, _____, being the parent / guardian of _____
(DOB) ___/___/____, of (address) _____,
on the (date) ___/___/____, do hereby consent to permit a member of An Garda Síochána / authorised person
to take, or cause to be taken, from (protected person) _____ a sample in respect of
section 29 for the purposes of generating a DNA profile in respect of him or her.

I am aware that Chief Superintendent _____ of _____
Garda Station has given authorisation on (date) ___/___/____ for the mass screening of a class of persons for
the purposes of the investigation of a particular relevant offence, namely _____
_____.

The person has been informed of the following prior to seeking their consent:

- (a) that an authorisation for a mass screening has been given under *subsection (2)* and that the person is one of the class of persons to whom it applies;
- (b) the purpose of the mass screening that has been authorised;
- (c) that the person is not obliged to have the sample taken from him or her;
- (d) in a case in which a sample already taken under this section from the person has proved to be insufficient or was inadequately labelled or for any other reason mentioned in *section 30* a second or further sample is required to be taken from him or her -
 - (i) that the first-mentioned sample has proved to be insufficient, was inadequately labelled or that other reason for requiring a second or further sample under this section to be taken, as may be appropriate,
 - (ii) a second or further sample is, in accordance with *section 30*, to be taken from him or her;
- (e) that the sample will be used to generate a DNA profile in respect of the person for the purposes of the investigation of the particular relevant offence in relation to which the sample is being taken;
- (f) that the sample and the DNA profile generated from the sample in respect of the person may be destroyed in accordance with *Part 10*.

Signed: _____

Witnessed _____
(_____)

Date: _____

**Criminal Justice
(Forensic Evidence and DNA Database System) Act 2014**

Section 29(9): **Withdrawal of consent for the taking of a sample for mass screening, pursuant to *section 29(9)* of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014**

I, (name) _____, (DOB) ___/___/_____, of
(address) _____,
have previously consented to the taking of a sample from me pursuant to *section 29(5)* (mass screening) for the purposes of generating a DNA profile in respect of me, following authorisation given by Chief Superintendent _____ of _____ Garda Station given on (date) ___/___/___ for a mass screening of a class of persons for the purposes of the investigation of a particular relevant offence, namely _____

I hereby withdraw my consent.

Signed: _____

Witnessed _____
(_____)

Date: _____

**Criminal Justice
(Forensic Evidence and DNA Database System) Act 2014**

Section 29(9): Withdrawal of consent for the taking of a sample for mass screening, pursuant to *section 29(9)* of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014 - child (aged 14 and over) or parent / guardian

I, (name) _____, (DOB) ___/___/____, of (address) _____, have previously consented to the taking of a sample from me pursuant to *section 29(5)* (mass screening) for the purposes of generating a DNA profile in respect of me, following authorisation given by Chief Superintendent _____ of _____ Garda Station on the (date) ___/___/____ for a mass screening of a class of persons for the purposes of the investigation of a particular relevant offence, namely _____.

I hereby withdraw my consent.

I, _____, being the parent / guardian of (child) _____, (DOB) ___/___/____, of (address) _____, have previously consented to the taking of a sample from him / her pursuant to *section 29(5)* (mass screening) for the purposes of generating a DNA profile in respect of him / her, following authorisation given by Chief Superintendent _____ of _____ Garda Station on the (date) ___/___/____ for a mass screening of a class of persons for the purposes of the investigation of a particular relevant offence, namely _____.

I hereby withdraw my consent.

Signed: _____ **Child 14 and over**

Signed: _____ **Parent / Guardian**

Witnessed _____

()

Date: _____

**Criminal Justice
(Forensic Evidence and DNA Database System) Act 2014**

Section 29(9): Withdrawal of consent for the taking of a sample for mass screening, pursuant to *section 29(9)* of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014 - parent / guardian of protected person

I, _____, being the parent / guardian of (protected person) _____, (DOB) ___/___/____, of (address) _____, have previously consented to the taking of a sample from him / her pursuant to *section 29(5)* (mass screening) for the purposes of generating a DNA profile in respect of him / her, following authorisation given by Chief Superintendent _____ of _____ Garda Station on the (date) ___/___/____ for a mass screening of a class of persons for the purposes of the investigation of a particular relevant offence, namely _____.

I hereby withdraw my consent.

Signed: _____ **Parent / Guardian**

Witnessed _____
(_____)

Date: _____

**Criminal Justice
(Forensic Evidence and DNA Database System) Act 2014**

Section 31(7): Form of authorisation for the taking of a sample from an offender, pursuant to section 31(7) of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014

I, _____, being a member of An Garda Síochána not below the rank of Sergeant, authorise the taking of a sample under this section from (name), _____ (DOB) ___/___/____, of (address) _____, who was convicted of a relevant offence, namely _____ on (date) ___/___/____, and who has attended at _____ Garda Station in accordance with this section for the purpose of having a sample taken from him or her. The sample shall be used to generate a DNA profile in respect of the offender to be entered in the reference index of the DNA Database System.

Time: _____

Date: _____

Signed: _____

Rank: _____

Criminal Justice (Forensic Evidence and DNA Database System) Act 2014

Section 31(9): Notice to attend a Garda Síochána station for the taking of a sample from an offender, pursuant to *section 31(9)* of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014

I, _____, being a member of An Garda Síochána not below the rank of Inspector, inform you (name) _____, (DOB) ___/___/_____, of (address) _____, having being convicted of a relevant offence, namely _____ on (date) ___/___/_____, that you are required to attend _____ Garda Station within a period of not less than 10 working days:

- on/between (date _____/dates _____)
- at/between (time _____/time _____)

for the purpose of having a sample taken from you under this section which shall be used to generate a DNA profile to be entered in the reference index of the DNA Database System.

A person who fails or refuses, without reasonable cause, to comply with a notice under *subsection (9)* shall be guilty of an offence and shall be liable on summary conviction to a class A fine or imprisonment for a term not exceeding 12 months or both.

Signed: _____
(_____)

Date: _____

**Criminal Justice
(Forensic Evidence and DNA Database System) Act 2014**

Section 31(9): Notice to attend a Garda Síochána station for the taking of a sample from an offender, pursuant to section 31(9) of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014 – notice to parent / guardian of protected person

I, _____, being a member of An Garda Síochána not below the rank of Inspector, inform you _____, parent / guardian of (protected person) _____, (DOB) ___/___/_____, of (address) _____, a person having being convicted of a relevant offence, namely _____ on (date) ___/___/_____, that (protected person) _____ is required to attend _____ Garda Station within a period of not less than 10 working days:

- on/between (date _____/dates _____)
- at/between (time _____/time _____)

for the purpose of having a sample taken from him or her under this section which shall be used to generate a DNA profile to be entered in the reference index of the DNA Database System.

A person who fails or refuses, without reasonable cause, to comply with a notice under subsection (9) shall be guilty of an offence and shall be liable on summary conviction to a class A fine or imprisonment for a term not exceeding 12 months or both.

Signed: _____
(_____)

Date: _____

**Criminal Justice
(Forensic Evidence and DNA Database System) Act 2014**

Section 32(7): Form of authorisation for the taking of a sample from a child offender in Garda Síochána station, pursuant to section 32(7) of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014

I, _____, being a member of An Garda Síochána not below the rank of Sergeant, authorise the taking of a sample under this section, from (name) _____, (DOB) ___/___/_____, of (address) _____, who was convicted of a relevant offence, namely _____ on (date) ___/___/_____, and who has attended at _____ Garda Station in accordance with this section. The sample shall be used to generate a DNA profile in respect of the offender to be entered in the reference index of the DNA Database System.

Time: _____

Date: _____

Signed: _____

(_____)

Rank: _____

Criminal Justice (Forensic Evidence and DNA Database System) Act 2014

Section 32(9): Notice to attend a Garda Síochána station for the taking of a sample from a child offender, pursuant to *section 32(9)* of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014

I, _____, being a member of An Garda Síochána not below the rank of Inspector, inform you (name), _____ (DOB) ___/___/_____, of (address) _____, _____, having being convicted of a relevant offence, namely _____ on (date) ___/___/_____, that you are required to attend _____ Garda Station within a period of not less than 10 working days:

- on/between (date _____/dates _____)
- at/between (time _____/time _____)

for the purpose of having a sample taken from you under this section which shall be used to generate a DNA profile to be entered in the reference index of the DNA Database System.

A person who fails or refuses, without reasonable cause, to comply with a notice under *subsection (9)* shall be guilty of an offence and shall be liable on summary conviction to a class C fine or detention for a period not exceeding 6 months or both.

Signed: _____ **Rank:** _____
()
Date: _____

***Notice to be sent to parent/guardian of child offender also**

**Criminal Justice
(Forensic Evidence and DNA Database System) Act 2014**

Section 32(9): Notice to attend a Garda Síochána station for the taking of a sample from a child offender, pursuant to section 32(9) of Criminal Justice (Forensic Evidence and DNA Database System) Act 2014 – notice to parent / guardian of child offender

I, _____, being a member of An Garda Síochána not below the rank of Inspector, inform you _____ (parent / guardian), of (child) _____ (DOB) ___/___/____, of (address) _____, a child offender who was convicted of a relevant offence, namely _____ on (date) ___/___/____, that (child) _____ is required to attend _____ Garda Station within a period of not less than 10 working days:

- on/between (date _____ /dates _____)
- at/between (time _____ /time _____)

for the purpose of having a sample taken from him or her under this section which shall be used to generate a DNA profile to be entered in the reference index of the DNA Database System.

A person who fails or refuses, without reasonable cause, to comply with a notice under *subsection (9)* shall be guilty of an offence and shall be liable on summary conviction to a class C fine or detention for a period not exceeding 6 months or both.

Signed: _____
()

Rank: _____

Date: _____

Criminal Justice (Forensic Evidence and DNA Database System) Act 2014

Section 34(2): Form of authorisation to make a request for the taking of a sample from a former offender, pursuant to *section 34(2)* of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014

I, _____, being a member of An Garda Síochána not below the rank of Superintendent, authorise the making of a request pursuant to *section 34(3)* for the taking of a sample from (name) _____, (DOB) ___/___/_____, of (address) _____, a former offender having being convicted of a relevant offence, namely _____ on (date) ___/___/_____.

I am satisfied that:

- (a) the person is a former offender, and
- (b) it is in the interests of the protection of society, and it is desirable for the purpose of assisting the Garda Síochána in the investigation of offences, to have a sample under this section taken from the person.

Signed: _____ **Rank:** _____
()

Date: _____

Criminal Justice (Forensic Evidence and DNA Database System) Act 2014

Section 34(3): Notice to attend a Garda Síochána station for the taking of a sample from a former offender, pursuant to *section 34(3)* of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014

I, _____, being a member of An Garda Síochána, inform you (name) _____, (DOB) ___/___/_____, of (address) _____, a person previously convicted of a relevant offence namely _____ on (date) ___/___/_____, that you are requested to attend _____ Garda Station within a period of not less than 10 working days:

- on/between (date _____/dates _____)
- at/between (time _____/time _____)

for the purpose of having a sample taken from you.

I must inform you that if you do not comply with this request, an application may be made to a judge of the District Court under *subsection (4)* for an order to authorise the sending of a notice under that subsection to you.

Signed: _____ **Rank:** _____

Date: _____

Criminal Justice (Forensic Evidence and DNA Database System) Act 2014

Section 34(3): Notice to attend a Garda Síochána station for the taking of a sample from a former offender, pursuant to *section 34(3)* of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014 – notice to parent / guardian of child

I, _____, being a member of An Garda Síochána, inform you _____, parent / guardian of (child) _____, (DOB) ___/___/_____, of (address) _____, a child previously convicted of a relevant offence namely _____ on (date) ___/___/_____, that he or she is requested to attend _____ Garda Station within a period of not less than 10 working days:

- on/between (date _____/dates _____)
- at/between (time _____/time _____)

for the purpose of having a sample taken from him or her.

I must inform you that if he or she does not comply with this request, an application may be made to a judge of the District Court under *subsection (4)* for an order to authorise the sending of a notice under that subsection to him or her.

Signed: _____ **Rank:** _____

Date: _____

***Notice to be sent to parent/guardian of protected person or child offender also**

**Criminal Justice
(Forensic Evidence and DNA Database System) Act 2014**

Section 34(3): Notice to attend a Garda Síochána station for the taking of a sample from a former offender, pursuant to section 34(3) of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014 – notice to parent / guardian of protected person

I, _____, being a member of An Garda Síochána, inform you _____, parent / guardian of (protected person) _____, (DOB) ___/___/_____, of (address) _____, a protected person previously convicted of a relevant offence namely _____ on (date) ___/___/_____, that he or she is requested to attend _____ Garda Station within a period of not less than 10 working days:

- on/between (date _____/dates _____)
- at/between (time _____/time _____)

for the purpose of having a sample taken from him or her.

I must inform you that if he or she does not comply with this request, an application may be made to a judge of the District Court under *subsection (4)* for an order to authorise the sending of a notice under that subsection to him or her.

Signed: _____ **Rank:** _____

Date: _____

***Notice to be sent to parent/guardian of protected person or child offender also**

Criminal Justice (Forensic Evidence and DNA Database System) Act 2014

Section 34(7): Notice to attend a Garda Síochána station for the taking of a sample from a former offender, pursuant to *section 34(7)* of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014 on foot of order made by a judge of the District Court

I, _____, being a member of An Garda Síochána, inform you (name) _____, (DOB) ___/___/_____, of (address) _____, a person previously convicted of a relevant offence namely _____ on (date) ___/___/_____, that a request was previously made of you on date ___/___/_____ to attend _____ Garda Station for the purpose of having a sample taken from you. You failed to comply with this request. Consequently, a judge of the District Court has made an order pursuant to *subsection 6* authorising the sending of this notice to you which requires you to attend _____ Garda Station:

- on/between (date _____/dates _____)
- at/between (time _____/time _____)

for the purpose of having a sample taken from you.

Signed: _____ **Rank:** _____

Date: _____

Criminal Justice (Forensic Evidence and DNA Database System) Act 2014

Section 34(7): Notice to attend a Garda Síochána station for the taking of a sample from a former offender, pursuant to *section 34(7)* of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014 on foot of order made by a judge of the District Court – notice to parent / guardian of child

I, _____, being a member of An Garda Síochána, inform you _____, parent / guardian of (child) _____, (DOB) ___/___/_____, of (address) _____, a child previously convicted of a relevant offence namely _____ on (date) ___/___/_____, that a request was previously made of him or her on date ___/___/_____ to attend _____ Garda Station for the purpose of having a sample taken from him or her.

(Child) _____ failed to comply with this request. Consequently, a judge of the District Court has made an order pursuant to *subsection 6* authorising the sending of this notice to him or her which requires him or her to attend _____ Garda Station:

- on/between (date _____/dates _____)
- at/between (time _____/time _____)

for the purpose of having a sample taken from him or her.

Signed: _____ **Rank:** _____

Date: _____

**Criminal Justice
(Forensic Evidence and DNA Database System) Act 2014**

Section 34(7): Notice to attend a Garda Síochána station for the taking of a sample from a former offender, pursuant to *section 34(7)* of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014 on foot of order made by a judge of the District Court – notice to parent / guardian of protected person

I, _____, being a member of An Garda Síochána, inform you _____, parent / guardian of (protected person) _____, (DOB) ___/___/_____, of (address) _____, a person previously convicted of a relevant offence namely _____ on (date) ___/___/_____, that a request was previously made of him or her on date ___/___/_____ to attend _____ Garda Station for the purpose of having a sample taken from him or her.

(Protected person) _____ failed to comply with this request. Consequently, a judge of the District Court has made an order pursuant to *subsection 6* authorising the sending of this notice to him or her which requires him or her to attend _____ Garda Station:

- on/between (date _____/dates _____)
- at/between (time _____/time _____)

for the purpose of having a sample taken from him or her.

Signed: _____ **Rank:** _____

Date: _____

**Criminal Justice
(Forensic Evidence and DNA Database System) Act 2014**

Section 38(7): Form of authorisation for the re-taking of a sample in Garda Síochána stations under *section 31* in certain circumstances, pursuant to *section 38(7)* of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014 (offender)

I, _____, being a member of An Garda Síochána not below the rank of Inspector, authorise the re-taking of a sample from (name) _____, (DOB) ___/___/_____, of (address) _____, an offender who was convicted of a relevant offence, namely _____ on (date) ___/___/_____. A sample was previously taken from this person on (date) ___/___/_____ pursuant to *section 31* (within the past 6 months) and I am satisfied that the initial sample taken was proven to be insufficient.

Signed: _____

Rank: _____

Date: _____

**Criminal Justice
(Forensic Evidence and DNA Database System) Act 2014**

Section 38(8): Form of authorisation for the re-taking of a sample in Garda Síochána stations under *section 32* in certain circumstances, pursuant to *section 38(8)* of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014 (child offender)

I, _____, being a member of An Garda Síochána not below the rank of Inspector, authorise the re-taking of a sample from (name) _____, (DOB) ___/___/____, of (address) _____, a child offender who was convicted of a relevant offence, namely _____ on (date) ___/___/____. A sample was previously taken from this person on (date) ___/___/____ pursuant to *section 32* (within the past 6 months) and I am satisfied that the initial sample taken was proven to be insufficient.

Signed: _____

Rank: _____

Date: _____

**Criminal Justice
(Forensic Evidence and DNA Database System) Act 2014**

Section 38(10): Notice to attend a Garda Síochána station for the re-taking of a sample from an offender / child offender under section 31 or 32 in certain circumstances, pursuant to section 38(10) of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014

I, _____, being a member of An Garda Síochána, inform you (offender or child offender), _____ (DOB) ___/___/____, of (address) _____, an offender / child offender convicted of a relevant offence, namely _____ on (date) ___/___/____, as a person having previously had a sample taken on (date) ___/___/____, pursuant to section 31 / 32 of the Act, that that sample previously taken was proven to be insufficient and you are required to attend _____ Garda Station within a period of not less than 10 working days:

- on/between (date _____/dates _____)
- at/between (time _____/time _____)

for the purpose of having a second sample taken from you.

An offender or a child offender who fails or refuses, without reasonable cause, to comply with a notice under subsection (10), shall be guilty of an offence and shall be liable on summary conviction-

- (a) in the case of an offender, to a class A fine or imprisonment for a term not exceeding 12 months or both, and
- (b) In the case of a child offender, to a class C fine or detention for a period not exceeding 6 months or both.

Signed: _____

Rank: _____

Date: _____

***Notice to be sent to parent/guardian of protected person or child offender also**

**Criminal Justice
(Forensic Evidence and DNA Database System) Act 2014**

Section 38(10): Notice to attend a Garda Síochána station for the re-taking of a sample from a child offender under section 32 in certain circumstances, pursuant to section 38(10) of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014 – notice to parent / guardian of child offender

I, _____, being a member of An Garda Síochána, inform you _____ (parent / guardian), of (child) _____ (DOB) ___/___/_____, of (address) _____, a child offender convicted of a relevant offence, namely _____ on (date) ___/___/_____, as a child having previously had a sample taken from you on (date) ___/___/_____ pursuant to section 32 of the Act, that that sample previously taken was proven to be insufficient and he or she is required to attend _____ Garda Station within a period of not less than 10 working days:

- on/between (date _____/dates _____)
- at/between (time _____/time _____)

for the purpose of having a second sample taken from him or her.

An offender or a child offender who fails or refuses, without reasonable cause, to comply with a notice under *subsection (10)*, shall be guilty of an offence and shall be liable on summary conviction-

(c) in the case of an offender, to a class A fine or imprisonment for a term not exceeding 12 months or both, and

(d) In the case of a child offender, to a class C fine or detention for a period not exceeding 6 months or both.

Signed: _____

Rank: _____

Date: _____

**Criminal Justice
(Forensic Evidence and DNA Database System) Act 2014**

Section 38(10): Notice to attend a Garda Síochána station for the re-taking of a sample from an offender under section 31 in certain circumstances, pursuant to section 38(10) of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014 – notice to parent / guardian of protected person

I, _____, being a member of An Garda Síochána, inform you _____ (parent / guardian), of (protected person) _____, (DOB) ___/___/____, of (address) _____, an offender convicted of a relevant offence, namely _____ on (date) ___/___/____, and a person having previously had a sample taken on (date) ___/___/____, pursuant to section 31 of the Act, that that sample previously taken was proven to be insufficient and he or she is requested to attend _____ Garda Station within a period of not less than 10 working days:

- on/between (date _____/dates _____)
- at/between (time _____/time _____)

for the purpose of having a second sample taken from him or her.

An offender or a child offender who fails or refuses, without reasonable cause, to comply with a notice under subsection (10), shall be guilty of an offence and shall be liable on summary conviction-

- (a) in the case of an offender, to a class A fine or imprisonment for a term not exceeding 12 months or both, and
- (b) In the case of a child offender, to a class C fine or detention for a period not exceeding 6 months or both.

Signed: _____

Rank: _____

Date: _____

Criminal Justice (Forensic Evidence and DNA Database System) Act 2014

Section 39(1): Notice to attend a Garda Síochána station for the re-taking of a sample from a former offender, pursuant to *section 39(1)* of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014

I, _____, being a member of An Garda Síochána, inform you (name) _____, (DOB) ___/___/____, of (address) _____, a person previously convicted of a relevant offence namely _____ on (date) ___/___/____, as a person having previously had a sample taken on (date) ___/___/____ being within the last six months and pursuant to *section 34* of the Act, that the sample previously taken was proven to be insufficient and you are requested to attend _____ Garda Station within a period of not less than 10 working days:

- on/between (date _____/dates _____)
- at/between (time _____/time _____)

for the purpose of having a second sample taken from you.

I must inform you that if you do not comply with this request, an application may be made to a judge of the District Court under *subsection (4)* for an order to authorise the sending of a notice under that subsection to you.

Signed: _____ **Rank:** _____

Date: _____

Criminal Justice (Forensic Evidence and DNA Database System) Act 2014

Section 39(1): Notice to attend a Garda Síochána station for the re-taking of a sample from a former offender, pursuant to *section 39(1)* of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014- notice to parent/ guardian of former child offender

I, _____, being a member of An Garda Síochána, inform you _____ (parent / guardian) of (name) _____, (DOB) ___/___/_____, of (address) _____, a child previously convicted of a relevant offence namely _____ on (date) ___/___/_____, as a child having previously had a sample taken on (date) ___/___/_____ being within the last six months and pursuant to *section 34* of the Act, that the sample previously taken was proven to be insufficient and he or she is requested to attend _____ Garda Station within a period of not less than 10 working days:

- on/between (date _____/dates _____)
- at/between (time _____/time _____)

for the purpose of having a second sample taken from him or her.

I must inform you that if he or she does not comply with this request that an application may be made to a judge of the District Court under *subsection (4)* for an order to authorise the sending of an notice under that subsection to him or her.

Signed: _____

Rank: _____

Date: _____

****Notice to be sent to parent/guardian of protected person or child offender also***

Criminal Justice (Forensic Evidence and DNA Database System) Act 2014

Section 39(1): Notice to attend a Garda Síochána station for the re-taking of a sample from a former offender, pursuant to *section 39(1)* of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014- notice to parent/ guardian of protected person

I, _____, being a member of An Garda Síochána, inform you _____ (parent / guardian) of (protected person) _____ (DOB) ___/___/____, of (address) _____, a protected person previously convicted of a relevant offence namely _____ on (date) ___/___/____ and a protected person having previously had a sample taken on (date) ___/___/____ being within the last six months and pursuant to *section 34* of the Act, that the sample previously taken was proven to be insufficient and he or she is requested to attend _____ Garda Station within a period of not less than 10 working days:

- on/between (date _____/dates _____)
- at/between (time _____/time _____)

for the purpose of having a second sample taken from him or her.

I must inform you that if he or she does not comply with this request that an application may be made to a judge of the District Court under *subsection (4)* for an order to authorise the sending of an notice under that subsection to him or her.

Signed: _____

Rank: _____

Date: _____

Notice to be sent to parent/guardian of protected person or child offender also

**Criminal Justice
(Forensic Evidence and DNA Database System) Act 2014**

Section 39(7): Notice to attend a Garda Síochána station for the re-taking of a sample from a former offender, pursuant to section 39(7) of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014 on foot of an order made by a judge of the District Court

I, _____, being a member of An Garda Síochána, inform you (name) _____ (DOB) ___/___/____, of (address) _____, a person previously convicted of a relevant offence namely _____ on (date) ___/___/____, as a person having previously had a sample taken on (date) ___/___/____ being within the last six months and pursuant to section 34 of the Act, that the sample previously taken was proven to be insufficient.

A request was previously made of you on date ___/___/____ to attend _____ Garda Station for the purpose of having a second sample taken from you. You failed to comply with this request. Consequently, a judge of the District Court has made an order pursuant to subsection 4 authorising the sending of this notice to you which requires you to attend _____ Garda Station:

- on date _____
- at/between (time _____/time _____)

for the purpose of having a second sample taken from you.

A person who fails or refuses, without reasonable cause, to comply with a notice under subsection 4 shall be guilty of an offence and shall be liable on summary conviction-

- (a) If the person is not a child, to a class A fine or imprisonment for a term not exceeding 12 months or both, and
- (b) If the person is a child, to a class C fine or detention for a period not exceeding six months or both

Signed: _____ **Rank:** _____

Date: _____

***Notice to be sent to parent/guardian of protected person or child offender if relevant**

**Criminal Justice
(Forensic Evidence and DNA Database System) Act 2014**

Section 39(7): Notice to attend a Garda Síochána station for the re-taking of a sample from a former offender, pursuant to *section 39(7)* of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014 on foot of an order made by a judge of the District Court- notice to parent / guardian of former child offender

I, _____, being a member of An Garda Síochána, inform you _____ (parent / guardian) of (name) _____, (DOB) ___/___/_____, of (address) _____, a child previously convicted of a relevant offence namely _____ on (date) ___/___/_____, as a child having previously had a sample taken on (date) ___/___/_____ being within the last six months and pursuant to *section 34* of the Act, that the sample previously taken was proven to be insufficient.

A request was previously made of him or her on date ___/___/_____ to attend _____ Garda Station for the purpose of having a second sample taken from him or her. He or she failed to comply with this request. Consequently, a Judge of the District Court has made an order pursuant to *subsection 4* authorising the sending of this notice to him or her which requires him or her to attend _____ Garda Station

- on date _____
- at/between (time _____/time _____)

for the purpose of having a second sample taken from him or her.

A person who fails or refuses, without reasonable cause, to comply with a notice under *subsection 4* shall be guilty of an offence and shall be liable on summary conviction-

- If the person is not a child, to a class A fine or imprisonment for a term not exceeding 12 months or both, and
- If the person is a child, to a class C fine or detention for a period not exceeding six months or both

Signed: _____

Rank: _____

Date: _____

**Criminal Justice
(Forensic Evidence and DNA Database System) Act 2014**

Section 39(7): Notice to attend a Garda Síochána station for the re-taking of a sample from a former offender, pursuant to *section 39(7)* of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014 on foot of an order made by a judge of the District Court- notice to parent / guardian of protected person

I, _____, being a member of An Garda Síochána, inform you _____, (parent / guardian) of (protected person) _____, (DOB) ___/___/_____, of (address) _____, a person previously convicted of a relevant offence namely _____ on (date) ___/___/_____, and a person having previously had a sample taken on (date) ___/___/_____, being within the last six months and pursuant to *section 34* of the Act, that the sample previously taken was proven to be insufficient.

A request was previously made of him or her on date ___/___/_____ to attend _____ Garda Station for the purpose of having a second sample taken from him or her. He or she failed to comply with this request. Consequently, a judge of the District Court has made an order pursuant to *subsection 4* authorising the sending of this notice to him or her requiring him or her to attend _____ Garda Station:

- on date _____
- at/between (time _____/time _____)

for the purpose of having a second sample taken from him or her.

A person who fails or refuses, without reasonable cause, to comply with a notice under *subsection 4* shall be guilty of an offence and shall be liable on summary conviction-

- (a) If the person is not a child, to a class A fine or imprisonment for a term not exceeding 12 months or both, and
- (b) If the person is a child, to a class C fine or detention for a period not exceeding six months or both

Signed: _____

Rank: _____

Date: _____

**Criminal Justice
(Forensic Evidence and DNA Database System) Act 2014**

Section 41 (3): Form of consent for taking of a sample from personnel of An Garda Síochána to be entered in the elimination (Garda Síochána) index, pursuant to section 41(3) of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014.

I, _____, (rank) _____ (reg no) _____ of _____
Garda Station, on the (date) ___/___/____, do hereby consent to permit a member of An Garda Síochána / authorised person to take, or cause to be taken, from me a sample for the purpose of the generation of a DNA profile in respect of me to be entered in the elimination (Garda Síochána) index of the DNA Database System. The purpose of providing this sample is to, in relation to the investigation of offences, ascertain whether or not I have contaminated a crime scene sample.

I have been informed that:

- (a) the sample is to be taken from me under this section;
- (b) in the case in which a sample already taken under this section from me has proved to be insufficient or was inadequately labelled or for any other reason mentioned in *section 47(1)* a second or further sample under this section is required to be taken from me -
 - i. that the first-mentioned sample has proved to be insufficient, was inadequately labelled or that other reason for requiring a second or further sample under this section to be taken, as may be appropriate, and
 - ii. that a second or further sample under this section is, in accordance with *section 47(1)*, to be taken from me;
- (c) the sample will be used to generate a DNA profile in respect of me to be entered in the elimination (Garda Síochána) index of the DNA Database System and the effect of such an entry;
- (d) if I, at any time after the taking of the sample, am assigned to duties relating to the investigation or technical examination of crime scenes or anything found at or recovered from crime scenes, the DNA profile in respect of me will be transferred from the elimination (Garda Síochána) index to the elimination (crime scene investigators) index of the DNA Database System;
- (e) in the case of a person referred to in *subsection (2)(b) or (3)(b)*, if he or she is at any time after the taking of the sample appointed as a member of the Garda Síochána, the DNA profile generated from the sample in respect of the person and entered in the elimination (Garda Síochána) index of the DNA Database System may be retained in that index of that System in accordance with *subsection (8)*; and
- (f) the sample may be destroyed, and the DNA profile in respect of me entered in the elimination (Garda Síochána) index or elimination (crime scene investigators) index, as the case may be, of the DNA Database System may be removed from that System, in accordance with *Part 10*.

Signed: _____ **Rank:** _____
()

Witnessed: _____ **Rank:** _____

Date: _____

*** Consent only applies to members of An Garda Síochána appointed prior to commencement of this section**

**Criminal Justice
(Forensic Evidence and DNA Database System) Act 2014**

Section 41 (6): Form of consent from personnel of An Garda Síochána to regard a sample taken and DNA profile generated prior to commencement of the Act as if taken under *section 41* of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014 – for entry in the elimination (Garda Síochána) index.

I, _____ (rank), _____ (reg no) _____ of _____ Garda Station, on the (date) ___/___/___ do hereby consent to allow the sample taken from me prior to the commencement of the Act be regarded as if it was taken under *section 41*. I consent to permit the entry of the DNA profile generated from this sample taken from me in the elimination (Garda Síochána) index. The purpose of providing this sample is to, in relation to the investigation of offences, ascertain whether or not I have contaminated a crime scene sample.

I have been informed that:

- (a) the sample will be used to generate a DNA profile in respect of me to be entered in the elimination (Garda Síochána) index of the DNA Database System and the effect of such an entry;
- (b) if I, at any time after the taking of the sample, am assigned to duties relating to the investigation or technical examination of crime scenes or anything found at or recovered from crime scenes, the DNA profile in respect of me will be transferred from the elimination (Garda Síochána) index to the elimination (crime scene investigators) index of the DNA Database System; and
- (c) the sample may be destroyed, and the DNA profile entered in respect of me in the elimination (Garda Síochána) index or elimination (crime scene investigators) index, as the case may be, of the DNA Database System may be removed from that System, in accordance with *Part 10*.

Signed: _____ **Rank** _____
()

Witnessed: _____ **Rank:** _____
()

Date: _____

*** Consent only applies to members of An Garda Síochána appointed prior to commencement of this section**

**Criminal Justice
(Forensic Evidence and DNA Database System) Act 2014**

Section 42 (3): Form of consent for the taking of a sample from personnel of An Garda Síochána (assigned to duties relating to the investigation or technical examination of crime scenes or anything found at or recovered from crime scenes) for entry in the elimination (crime scene investigators) index, pursuant to *section 42(3)* of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014

I, _____, (rank), _____ (reg no) _____ / (Staff No) _____ of _____ Garda Station, on the (date) ___/___/_____ do hereby consent to permit a member of An Garda Síochána / authorised person to take, or cause to be taken, from me a sample for the purpose of the generation of a DNA profile in respect of me to be entered in the elimination (crime scene investigator) index of the DNA Database System. The purpose of providing this sample is to, in relation to the investigation of offences, ascertain whether or not I have contaminated a crime scene sample.

I have been informed that:

- (a) the sample is to be taken from me under this section;
- (b) in a case in which a sample already taken from me under this section has proved to be insufficient or was inadequately labelled or for any other reason mentioned in *section 47(1)* a second or further sample under this section is required to be taken from me-
 - i. that the first-mentioned sample has proved to be insufficient, was inadequately labelled or that other reason for requiring a second or further sample under this section to be taken, as may be appropriate, and
 - ii. that a second or further sample under this section is, in accordance with *section 47(1)*, to be taken from me;
- (c) the sample will be used to generate a DNA profile in respect of me to be entered in the elimination (crime scene investigators) index of the DNA Database System and the effect of such an entry;
- (d) if, in the case of the person referred to in *paragraph (a)* or *(b)* of *subsection (2)* or *paragraph (a)* or *(b)* of *subsection (3)*, the person is no longer assigned to duties relating to the investigation or technical examination of crime scenes or anything found at or recovered from crime scenes, the DNA profile in respect of the person will be transferred from the elimination (crime scene investigators) index to the elimination (Garda Síochána) index of the DNA Database System;
- (e) in a case of a person referred to in *subsection (2)(b)* or *(3)(b)*, if he or she is at any time after the taking of the sample appointed as a member of the Garda Síochána, the DNA profile generated from the sample in respect of the person and entered in the elimination (crime scene investigators) index of the DNA Database System may be retained in that index of that System in accordance with *subsection (8)*; and
- (f) the sample may be destroyed, and the DNA profile in respect of me entered in the elimination (crime scene investigators) index or the elimination (Garda Síochána) index, as the case may be, of the DNA Database System may be removed from that System, in accordance with *Part 10*.

Signed: _____ Rank _____

()

Witnessed: _____ Rank: _____

()

Date: _____

*** Consent only applies to members of An Garda Síochána appointed prior to commencement of this section**

**Criminal Justice
(Forensic Evidence and DNA Database System) Act 2014**

Section 42 (6): Form of consent from personnel of An Garda Síochána (assigned to duties relating to the investigation or technical examination of crime scenes or anything found at or recovered from crime scenes) to regard a sample taken and DNA profile generated prior to commencement of the Act as if taken under *section 42* of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014 – for entry in the elimination (crime scene investigators) index.

I, _____, (rank), _____ (reg no) _____ / (Staff No) _____ of _____ Garda Station on the (date) ___/___/____, do hereby consent allow the sample taken from me prior to commencement of the Act be regarded as if it was taken under *section 42* and I consent to permit the entry of the DNA profile generated from this sample taken from me, in the elimination (crime scene investigators) index. The purpose of providing this sample is to, in relation to the investigation of offences, ascertain whether or not I have contaminated a crime scene sample.

I have been informed that:

- (a) the sample will be used to generate a DNA profile in respect of me to be entered in the elimination (crime scene investigators) index of the DNA Database System and the effect of such an entry;
- (b) if, in the case of the person referred to in *paragraph (a) or (b) of subsection (2) or paragraph (a) or (b) of subsection (3)*, the person is no longer assigned to duties relating to the investigation or technical examination of crime scenes or anything found at or recovered from crime scenes, the DNA profile in respect of the person will be transferred from the elimination (crime scene investigators) index to the elimination (Garda Síochána) index of the DNA Database System;
- (c) the sample may be destroyed, and the DNA profile in respect of me entered in the elimination (crime scene investigators) index or elimination (Garda Síochána) index, as the case may be, of the DNA Database System may be removed from that System, in accordance with *Part 10*.

Signed: _____
()

Witnessed: _____
()

Date: _____

**Criminal Justice
(Forensic Evidence and DNA Database System) Act 2014**

Section 48(3): Form of authorisation for the taking of samples in relation to missing persons, pursuant to section 48(3) of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014

I, _____, being a member of An Garda Síochána not below the rank of Inspector, authorise the taking of:

(a) in the case of missing person (name) _____, (DOB) ____/____/____, of (address) _____, a sample of biological material from which a DNA profile may be generated;

(b) a sample from (name of blood relative) _____, (DOB) ____/____/____, of (address) _____, being the (relationship to missing person) _____ of _____.

I am satisfied that

(a) the circumstances of the disappearance so require,

or

(b) following a natural or other disaster, one or more persons are missing.

I believe that the taking of the sample(s) concerned, the generation of the DNA profile(s) from the sample(s) in respect of the person(s) concerned and the entry of the DNA profile(s) in the missing and unknown persons index of the DNA Database System may assist with finding or identifying the missing person concerned.

Time: _____

Date: _____

Signed: _____
()

Rank: _____

**Criminal Justice
(Forensic Evidence and DNA Database System) Act 2014**

Section 48(7): Form of consent for the taking of a sample from blood relative in relation to missing persons, pursuant to section 48(7) of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014

I, (name of blood relative) _____ (DOB) ___/___/___, of (address) _____, being the (relationship to missing person) _____ of (missing person's name) _____, (DOB) ___/___/___, of (address) _____, on the (date) ___/___/___, do hereby consent to permit a member of An Garda Síochána / authorised person to take, or cause to be taken, a sample from me for the purposes of generating a DNA profile in respect of me to be entered in the missing and unknown persons index of the DNA Database System to assist with finding or identifying (missing person) _____.

I have been informed of the following prior to the taking of sample from me:

- (a) that an authorisation to take the sample has been given under *subsection (3)*,
- (b) that I am not obliged to have a sample under this section taken from me,
- (c) in a case in which a sample already taken under this section from me has proved to insufficient, was inadequately labelled or for any other reason mentioned in *section 50* a second or further sample is required to be taken from me –
 - (i) that the first-mentioned sample has proved to be insufficient, was inadequately labelled or that other reason for requiring a second or further sample under this section to be taken, as may be appropriate, and
 - (ii) that a second or further sample is, in accordance with *section 50*, to be taken from me,
- (d) that the sample will be used to generate a DNA profile in respect of me to be entered in the missing and unknown persons index of the DNA Database System and the effect of such an entry, and
- (e) that the sample may be destroyed, and the DNA profile in respect of me entered in the missing and unknown persons index of the DNA Database System may be removed from the System, in accordance with *Part 10*.

Signed: _____
()

Witnessed: _____

Rank: _____

Date: _____

**Criminal Justice
(Forensic Evidence and DNA Database System) Act 2014**

Section 48(7): Form of consent for the taking of a sample from blood relative in relation to missing persons, pursuant to section 48(7) of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014 – consent of parent / guardian of child under 14

I, _____, being the parent / guardian of (child) _____ (DOB) ___/___/_____, of (address) _____, who is the (relationship to missing person) _____ of (missing person's name) _____, (DOB) ___/___/_____, of (address) _____, on the (date) ___/___/_____, do hereby consent to permit a member of An Garda Síochána / authorised person to take, or cause to be taken, a sample from (child) _____ for the purposes of generating a DNA profile in respect of him or her to be entered in the missing and unknown persons index of the DNA Database System to assist with finding or identifying (missing person) _____.

The person has been informed of the following prior to the taking of sample from him or her:

- (f) that an authorisation to take the sample has been given under *subsection (3)*,
- (g) that the person is not obliged to have a sample under this section taken from him or her,
- (h) in a case in which a sample already taken under this section from the person has proved to insufficient, was inadequately labelled or for any other reason mentioned in *section 50* a second or further sample is required to be taken from him or her –
 - (iii) that the first-mentioned sample has proved to be insufficient, was inadequately labelled or that other reason for requiring a second or further sample under this section to be taken, as may be appropriate, and
 - (iv) that a second or further sample is, in accordance with *section 50*, to be taken from him or her,
- (i) that the sample will be used to generate a DNA profile in respect of the person to be entered in the missing and unknown persons index of the DNA Database System and the effect of such an entry, and
- (j) that the sample may be destroyed, and the DNA profile in respect of the person entered in the missing and unknown persons index of the DNA Database System may be removed from the System, in accordance with *Part 10*.

Signed: _____ **Parent / Guardian**
()

Witnessed: _____ **Rank:** _____

Date: _____

**Criminal Justice
(Forensic Evidence and DNA Database System) Act 2014**

Section 48(7): Form of consent for the taking of a sample from blood relative in relation to missing persons, pursuant to section 48(7) of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014 - consent of child aged 14 and over and consent of parent / guardian

I, (name of blood relative) _____ (DOB) __/__/____, of (address) _____, being the (relationship to missing person) _____ of (missing person's name) _____, (DOB) __/__/____, of (address) _____, on the (date) __/__/____, do hereby consent to permit a member of An Garda Síochána / authorised person to take, or cause to be taken, a sample from me for the purposes of generating a DNA profile in respect of me to be entered in the missing and unknown persons index of the DNA database system to assist with finding or identifying (missing person) _____.

I, _____, being the parent / guardian of (child) _____ (DOB) __/__/____, of (address) _____, who is the (relationship to missing person) _____ of (missing person's name) _____, (DOB) __/__/____, of (address) _____, on the (date) __/__/____, do hereby consent to permit a member of An Garda Síochána / authorised person to take, or cause to be taken, a sample from (child) _____ for the purposes of generating a DNA profile in respect of him or her to be entered in the missing and unknown persons index of the DNA database system to assist with finding or identifying (missing person) _____.

The person has been informed of the following prior to the taking of sample from him or her:

- (k) that an authorisation to take the sample has been given under *subsection (3)*,
- (l) that the person is not obliged to have a sample under this section taken from him or her,
- (m) in a case in which a sample already taken under this section from the person has proved to insufficient, was inadequately labelled or for any other reason mentioned in *section 50* a second or further sample is required to be taken from him or her –
 - (v) that the first-mentioned sample has proved to be insufficient, was inadequately labelled or that other reason for requiring a second or further sample under this section to be taken, as may be appropriate, and
 - (vi) that a second or further sample is, in accordance with *section 50*, to be taken from him or her,
- (n) that the sample will be used to generate a DNA profile in respect of the person to be entered in the missing and unknown persons index of the DNA Database System and the effect of such an entry, and
- (o) that the sample may be destroyed, and the DNA profile in respect of the person entered in the missing and unknown persons index of the DNA Database System may be removed from the System, in accordance with *Part 10*.

Signed: _____ **Child**

Signed: _____ **Parent / Guardian**
(_____)

Witnessed: _____ **Rank:** _____

Date: _____

**Criminal Justice
(Forensic Evidence and DNA Database System) Act 2014**

Section 48(7): Form of consent for the taking of a sample from blood relative in relation to missing persons, pursuant to section 48(7) of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014 – consent of parent / guardian of protected person

I, _____, being the parent / guardian of (protected person) _____ (DOB) ___/___/_____, of (address) _____, who is the (relationship to missing person) _____ of (missing person's name) _____, (DOB) ___/___/_____, of (address) _____, on the (date) ___/___/_____, do hereby consent to permit a member of An Garda Síochána / authorised person to take, or cause to be taken, a sample from (protected person) _____ for the purposes of generating a DNA profile in respect of him or her to be entered in the missing and unknown persons index of the DNA database system to assist with finding or identifying (missing person) _____.

The person has been informed of the following prior to the taking of sample from him or her:

- (p) that an authorisation to take the sample has been given under *subsection (3)*,
- (q) that the person is not obliged to have a sample under this section taken from him or her,
- (r) in a case in which a sample already taken under this section from the person has proved to insufficient, was inadequately labelled or for any other reason mentioned in *section 50* a second or further sample is required to be taken from him or her –
 - (vii) that the first-mentioned sample has proved to be insufficient, was inadequately labelled or that other reason for requiring a second or further sample under this section to be taken, as may be appropriate, and
 - (viii) that a second or further sample is, in accordance with *section 50*, to be taken from him or her,
- (s) that the sample will be used to generate a DNA profile in respect of the person to be entered in the missing and unknown persons index of the DNA Database System and the effect of such an entry, and
- (t) that the sample may be destroyed, and the DNA profile in respect of the person entered in the missing and unknown persons index of the DNA Database System may be removed from the System, in accordance with *Part 10*.

Signed: _____ **Parent / Guardian**

()

Witnessed: _____ **Rank:** _____

Date: _____

**Criminal Justice
(Forensic Evidence and DNA Database System) Act 2014**

Section 48(10): Withdrawal of consent for the taking of a sample from blood relative in relation to missing persons, pursuant to *section 48(10)* of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014

I, (name of blood relative) _____, (DOB) ___/___/_____,
of (address) _____,
being the (relationship to missing person) _____ of
(missing person's name) _____, (DOB) ___/___/_____,
of (address) _____,
and having previously given my consent to permit a member of An Garda Síochána /
authorised person to take, or cause to be taken, from me a sample for the purposes
of generating a DNA profile, do hereby withdraw my consent.

Signed: _____
()

Witnessed: _____ **Rank:** _____

Date: _____

Criminal Justice (Forensic Evidence and DNA Database System) Act 2014

Section 48(10): Withdrawal of consent for the taking of a sample from blood relative in relation to missing persons, pursuant to *section 48(10)* of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014 - parent / guardian of child under 14

I, _____, being the parent / guardian of (child) _____, (DOB) ___/___/____, of (address) _____, who is the (relationship to missing person) _____ of (missing person's name) _____, (DOB) ___/___/____, of (address) _____, and having previously given my consent to permit a member of An Garda Síochána / authorised person to take, or cause to be taken, from (child) _____ a sample for the purposes of generating a DNA profile, do hereby withdraw my consent.

Signed: _____ **Parent / Guardian**
(_____)

Witnessed: _____ **Rank:** _____

Date: _____

**Criminal Justice
(Forensic Evidence and DNA Database System) Act 2014**

Section 48(10): Withdrawal of consent for the taking of a sample from blood relative in relation to missing persons, pursuant to *section 48(10)* of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014 – child (aged 14 and over) or parent / guardian

I, (name of blood relative) _____, (DOB) ___/___/_____,
of (address) _____,
being the (relationship to missing person) _____ of
(missing person's name) _____, (DOB) ___/___/_____,
of (address) _____,
and having previously given my consent to permit a member of An Garda Síochána /
authorised person to take, or cause to be taken, from me a sample for the purposes
of generating a DNA profile, do hereby withdraw my consent.

I, _____, being the parent / guardian
of (child) _____, (DOB) ___/___/_____, of (address)
_____, who is the
(relationship to missing person) _____ of (missing person's name)
_____, (DOB) ___/___/_____, of (address)
_____, and having
previously given my consent to permit a member of An Garda Síochána / authorised
person to take, or cause to be taken, from (child) _____
_____ a sample for the purposes of generating a DNA profile, do
hereby withdraw my consent.

Signed: _____ **Child 14 and over**

Signed: _____ **Parent / Guardian**
()

**Criminal Justice
(Forensic Evidence and DNA Database System) Act 2014**

Section 48(10): Withdrawal of consent for the taking of a sample from blood relative in relation to missing persons, pursuant to *section 48(10)* of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014 - parent / guardian of protected person

I, _____, being the parent / guardian of (protected person) _____, (DOB) ___/___/____, of (address) _____, who is the (relationship to missing person) _____ of (missing person's name) _____, (DOB) ___/___/____, of (address) _____, and having previously given my consent to permit a member of An Garda Síochána / authorised person to take, or cause to be taken, from (protected person) _____ a sample for the purposes of generating a DNA profile, do hereby withdraw my consent.

Signed: _____ **Parent / Guardian**
(_____)

Witnessed: _____ **Rank:** _____

Date: _____

**Criminal Justice
(Forensic Evidence and DNA Database System) Act 2014**

**Information regarding the taking of samples from persons in custody of An Garda Síochána
for the purposes of the DNA Database System**

Section 11(3): Following authorisation under *section 11(2)* of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014 to take a sample from a person who is detained under any of the provisions referred to in *section 9(1)*, and prior to the taking, or causing to be taken, of the sample, a member of An Garda Síochána will inform the person of the following:

- (a) that an authorisation to take the sample from him or her has been given under *subsection (2)*;
- (b) in a case in which a sample already taken under this section from the person has proved to be insufficient—
 - (i) that that sample has proved to be insufficient, and
 - (ii) that either—
 - (I) another authorisation under *subsection (2)* is not, by virtue of *section 3(6)*, required, or
 - (II) an authorisation to take a second sample from him or her has, in accordance with *section 25(1)*, been given under *subsection (2)*;
- (c) that if the person (other than a child) fails or refuses to allow the sample to be taken from him or her, reasonable force may be used in accordance with *section 24* to take the sample;
- (d) that the sample will be used to generate a DNA profile in respect of the person to be entered in the reference index of the DNA Database System and the effect of such an entry;
- (e) that the sample, or the DNA profile generated from the sample in respect of the person, may be transmitted or provided to a person or body in connection with the investigation of criminal offences or criminal proceedings (whether within or outside the State) as provided for in or permitted by this Act; and
- (f) that the sample may be destroyed, and the DNA profile in respect of the person entered in the reference index of the DNA Database System may be removed from that System, in accordance with *Part 10*.

**Criminal Justice
(Forensic Evidence and DNA Database System) Act 2014**

**Information regarding the taking of non-intimate samples
from persons in custody of AnGarda Síochána**

Section 13(5): Following authorisation to take a non-intimate sample from a person who is detained under any of the provisions referred to in *section 9(1)* of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014 and prior to the taking, or causing to be taken, of the sample, a member of An Garda Síochána will inform the person of the following:

- (a) the nature of the offence in the commission of which it is suspected that the person has been involved;
- (b) that an authorisation to take the sample from him or her has been given under *subsection (2)* and the grounds on which it has been given;
- (c) in a case in which a non-intimate sample already taken from the person has proved to be insufficient or was inadequately labelled—
 - (i) that that sample has proved to be insufficient or was inadequately labelled, as may be appropriate, and
 - (ii) that either—
 - (I) another authorisation under *subsection (2)* is not, by virtue of *section 3(6)*, required, or
 - (II) an authorisation to take a second non-intimate sample from him or her has, in accordance with *section 25(1)*, been given under *subsection (2)* and the grounds on which it has been given;
- (d) if appropriate, that if the person fails or refuses to allow the sample to be taken from him or her, reasonable force may be used in accordance with *section 24* to take the sample;
- (e) that the results of the forensic testing of the sample may be given in evidence in any proceedings;
- (f) if appropriate, that the sample will be used to generate a DNA profile in respect of the person to be entered in the reference index of the DNA Database System and the effect of such an entry;
- (g) that the sample, or the DNA profile generated from the sample in respect of the person, may be transmitted or provided to a person or body in connection with the investigation of criminal offences or criminal proceedings (whether within or outside the State) as provided for in or permitted by this Act;
- (h) that the sample may be compared under *section 145* with evidence taken from a crime scene (including crime scene samples) received from a law enforcement agency within the meaning of *Chapter 7 of Part 12*; and
- (i) that the sample may be destroyed, and (if appropriate) the DNA profile in respect of the person entered in the reference index of the DNA Database System may be removed from that System, in accordance with *Part 10*.

**Criminal Justice
(Forensic Evidence and DNA Database System) Act 2014**

To be provided to person prior to completion of DNA Form 19(2).

Inferences from refusal to consent, or withdrawal of consent, to taking of intimate sample-

19. (1) Subject to *subsection (5)*, where in any proceedings against a person for an offence (other than an offence under *section 160(1)*) evidence is given that the accused refused without reasonable cause to give an appropriate consent required under *section 12(2)(b)* or he or she without reasonable cause withdrew the appropriate consent given thereunder, then—

(a) the court, in determining—

- (i) whether a charge against the accused should be dismissed under Part IA of the Criminal Procedure Act 1967, or
- (ii) whether there is a case to answer, and

(b) the court (or, subject to the judge's directions, the jury), in determining whether the accused is guilty of the offence charged (or of any other offence of which he or she could lawfully be convicted on that charge),

may draw such inferences from the refusal or withdrawal, as the case may be, as appear proper; and the refusal or withdrawal may, on the basis of such inferences, be treated as, or as being capable of amounting to, corroboration of any evidence in relation to which the refusal or withdrawal is material, but a person shall not be convicted of such an offence solely or mainly on an inference drawn from such refusal or withdrawal.

(2) *Subsection (1)* shall not have effect in relation to an accused unless—

(a) he or she has been told in ordinary language by a member of the Garda Síochána when seeking his or her consent that—

- (i) the sample was required for the purpose of forensic testing,
- (ii) his or her consent was necessary, and
- (iii) if his or her consent was not given, what the effect of a refusal or withdrawal by him or her of such consent might be,

and

(b) he or she was informed before such refusal or withdrawal of consent occurred that he or she had the right to consult a solicitor and, other than where he or she waived that right, he or she was afforded an opportunity to do so before such refusal or withdrawal occurred.

(3) This section shall not apply to a refusal by a person to give the appropriate consent, or the withdrawal of such consent, unless the seeking of such consent by a member of the Garda Síochána is recorded by electronic or similar means or the person consents in writing to it not being so recorded.

(4) References in *subsection (1)* to evidence shall, in relation to the hearing of an application under Part IA of the Criminal Procedure Act 1967 for the dismissal of a charge, be taken to include a statement of the evidence to be given by a witness at the trial.

(5) This section shall not apply—

- (a) to a protected person,
- (b) to a person who has not attained the age of 14 years, or
- (c) in a case where the appropriate consent has been refused, or been withdrawn, by a parent or guardian of a child unless a judge of the District Court makes an order under *section 17(6)* and the child refuses to comply with the order.

**Criminal Justice
(Forensic Evidence and DNA Database System) Act 2014**

Section 20(1)(ii): Following authorisation to use a sample taken under *section 11* from a person who is detained under any of the provisions referred to in *section 9(1)* of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014 for evidential purposes, a member of An Garda Síochána will inform the person of the following:

- (I) the nature of the offence in the commission of which it is suspected that the person has been involved;
- (II) that an authorisation to regard that sample as a non-intimate sample has been given under *paragraph (i)* and the grounds on which it has been given; and
- (III) that the results of the forensic testing of that sample may be given in evidence in any proceedings.

**Criminal Justice
(Forensic Evidence and DNA Database System) Act 2014**

Information regarding the authorisation to use reasonable force to take a sample under section 11 or non-intimate sample (section 13)

Section 24(4): Information to be given to person regarding the authorisation given to use reasonable force to take a sample under *section 11* or non-intimate sample (*section 13*) pursuant to section 24(4) of the Criminal Justice(Forensic Evidence and DNA Database System) Act 2014.

Where it is intended to exercise the power conferred by *subsection (1) of section 24*, one of the members of the Garda Síochána concerned shall inform the person -

- (a) of the intention to use such force as is reasonably required to take the sample and / or to prevent the loss, destruction or contamination of the sample, and
- (b) that an authorisation to do so has been given under *subsection (3) of section 24*.

Criminal Justice (Forensic Evidence and DNA Database System) Act 2014

Section 27(3): Information to be given to volunteers pursuant to *section 27(3)* of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014.

A member of An Garda Síochána or an authorised person shall inform a volunteer of the following before seeking his or her consent to the taking of a sample under this section or the member or authorised person takes, or causes to be taken such a sample from him or her:

- (a) that the volunteer is not obliged to have the sample taken from him or her;
- (b) in a case in which a sample already taken under this section from the volunteer has proved to be insufficient or was inadequately labelled or for any other reason mentioned in *section 30* a second or further sample is required to be taken from him or her:
 - (i) that the first-mentioned sample has proved to be insufficient, was inadequately labelled or that other reason for requiring a second or further sample under this section to be taken, as may be appropriate, and
 - (ii) that a second or further sample is, in accordance with *section 30*, to be taken from him or her;
- (c) that the sample will be used to generate a DNA profile in respect of the volunteer for the purposes of the investigation of the offence, or incident that may have involved the commission of an offence, in relation to which it is being taken; and
- (d) that the sample and the DNA profile generated from the sample in respect of the volunteer may be destroyed in accordance with *Part 10*.

Criminal Justice (Forensic Evidence and DNA Database System) Act 2014

Section 29(4): Information to be given to a person who is one of a class of persons to whom an authorisation for a mass screening applies pursuant to *section 29(4)* of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014

A member of An Garda Síochána or an authorised person shall inform a person of the following before seeking his or her consent to the taking of a sample under this section or the member or authorised person takes, or causes to be taken, a sample under this section from him or her:

- (a) that an authorisation for a mass screening has been given under *subsection (2)* and that the person is one of the class of persons to whom it applies;
- (b) the purpose of the mass screening that has been authorised;
- (c) that the person is not obliged to have the sample taken from him or her;
- (d) in a case in which a sample already taken under this section from the person has proved to be insufficient or was inadequately labelled or for any other reason mentioned in *section 30* a second or further sample is required to be taken from him or her -
 - (i) that the first-mentioned sample has proved to be insufficient, was inadequately labelled or that other reason for requiring a second or further sample under this section is to be taken, as may be appropriate, and
 - (ii) that a second or further sample is, in accordance with *section 30*, to be taken from him or her;
- (e) that the sample will be used to generate a DNA profile in respect of the person for the purposes of the investigation of the particular relevant offence in relation to which the sample is being taken; and
- (f) that the sample and the DNA profile generated from the sample in respect of the person may be destroyed in accordance with *Part 10*.

**Criminal Justice
(Forensic Evidence and DNA Database System) Act 2014**

Section 31(8): Following authorisation under *section 31(7)* of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014 to take a sample from an offender who attends at a Garda Station on foot of a *section 31(9)* notice to attend and prior to the taking, or causing to be taken of this sample, a member of An Garda Síochána will inform the person of the following:

- (a) that an authorisation to take the sample from him/her has been given under *subsection (7)*;
- (b) in a case in which a sample already taken under this section has proved to be insufficient—
 - (i) that sample has proved to be insufficient, and
 - (ii) that either—
 - (I) another authorisation under *subsection (7)* is not, by virtue of *section 3(6)*, required, or
 - (II) an authorisation to take a second sample from him or her has, in accordance with *subsection (3)* been given or, if appropriate, that an authorisation under *section 38(7)* has been given for the taking of second such sample;
- (c) that the sample will be used to generate a DNA profile in respect of the person to be entered in the reference index of the DNA Database System and the effect of such an entry;
- (d) that the sample will be used to generate a DNA profile in respect of the offender to be entered in the reference index of the DNA Database System and the effect of such an entry;
- (e) that the sample, or the DNA profile generated from the sample, may be transmitted or provided to a person or body in connection with the investigation of criminal offences or criminal proceedings (whether within or outside the State) as provided for in or permitted by this Act; and
- (f) that the sample may be destroyed, and the DNA profile entered in the reference index of the DNA Database System may be removed from that System, in accordance with *Part 10*.

**Criminal Justice
(Forensic Evidence and DNA Database System) Act 2014**

Section 32(8): Following authorisation under *section 32(7)* of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014 to take a sample from a child offender who attends at a Garda Síochána Station on foot of a *section 32(9)* notice, prior to the taking, or causing to be taken of this sample, a member of An Garda Síochána will inform the person of the following:

- (a) that an authorisation to take the sample from him/her has been given under *subsection (7)*;
- (b) in a case in which a sample already taken under this section has proved to be insufficient—
 - (i) that sample has proved to be insufficient, and
 - (ii) that either—
 - (I) another authorisation under *subsection (7)* is not, by virtue of *section 3(6)*, required, or
 - (II) an authorisation to take a second sample from him or her has, in accordance with *subsection (5)* been given or, if appropriate, that an authorisation under *section 38(8)* has been given for the taking of second such sample.
- (d) that the sample will be used to generate a DNA profile in respect of the person to be entered in the reference index of the DNA Database System and the effect of such an entry;
- (e) that the sample, or the DNA profile generated from the sample, may be transmitted or provided to a person or body in connection with the investigation of criminal offences or criminal proceedings (whether within or outside the State) as provided for in or permitted by this Act; and
- (f) that the sample may be destroyed, and the DNA profile entered in the reference index of the DNA Database System may be removed from that System, in accordance with *Part 10*.

**Criminal Justice
(Forensic Evidence and DNA Database System) Act 2014**

Section 34(10): **Following authorisation under *section 34(2)* of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014 and prior to the taking, or causing to be taken of this sample from a former offender, a member of An Garda Síochána will inform the person of the following:**

- (a) that an authorisation to request a sample under this section from the former offender has been given under *subsection (2)* or, as may be appropriate, a judge of the District Court has made an order under *subsection (6)* authorising the sending of a notice under that subsection to him or her requiring him or her to attend at a named Garda Síochána station for the purpose of having a sample under this section taken from him or her;
- (b) in a case in which a sample already taken under this section has proved to be insufficient—
 - (i) that that sample has proved to be insufficient, and
 - (ii) that a request for the taking of a second sample from him or her has been made under *subsection (1)* of *section 39* or a judge of the District Court has made an order under *subsection (4)* of that section for the taking of a second sample from him or her, as may be appropriate,
- (c) that the sample will be used to generate a DNA profile in respect of the former offender to be entered in the reference index of the DNA Database System and the effect of such an entry,
- (d) that the sample, or the DNA profile generated from the sample in respect of the person, may be transmitted or provided to a person or body in connection with the investigation of criminal offences or criminal proceedings (whether within or outside the State) as provided for in or permitted by this Act; and
- (e) that the sample may be destroyed, and the DNA profile in respect of the former offender entered in the reference index of the DNA Database System may be removed from that System, in accordance with *Part 10*.

A person who fails or refuses, without reasonable cause, to comply with a notice under *subsection (7)* (a notice sent pursuant to an order made by a judge of the District Court in accordance with *subsection (6)*), shall be guilty of an offence and shall be liable on summary conviction -

- (a) if the person is not a child, to a class A fine or imprisonment for a term not exceeding 12 months or both, and
- (b) if the person is a child, to a class C fine or detention for a term not exceeding six months or both.

Criminal Justice (Forensic Evidence and DNA Database System) Act 2014

Section 48(6): Information to be given to relative by blood of missing person pursuant to *section 48(6)* of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014.

A member of An Garda Síochána or an authorised person shall inform a person who is a relative by blood of a missing person of the following before taking, or causing to be taken, a sample under this section from him or her:

- (u) that an authorisation to take the sample has been given under *subsection (3)*,
- (v) that the person is not obliged to have a sample under this section taken from him or her,
- (w) in a case in which a sample already taken under this section from the person has proved to be insufficient, was inadequately labelled or for any other reason mentioned in *section 50* a second or further sample is required to be taken from him or her –
 - (ix) that the first-mentioned sample has proved to be insufficient, was inadequately labelled or that other reason for requiring a second or further sample under this section to be taken, as may be appropriate, and
 - (x) that a second or further sample is, in accordance with *section 50*, to be taken from him or her,
- (x) that the sample will be used to generate a DNA profile in respect of the person to be entered in the missing and unknown persons index of the DNA Database System and the effect of such an entry, and
- (y) that the sample may be destroyed, and the DNA profile in respect of the person entered in the missing and unknown persons index of the DNA Database System may be removed from the System, in accordance with *Part 10*.