



Police and Criminal Evidence Act 1984

1984 CHAPTER 60

PART V

QUESTIONING AND TREATMENT OF PERSONS BY POLICE

[^{F1}63K Retention of section 63D material: exception for persons under 18 convicted of first minor offence

- (1) This section applies to section 63D material which—
 - (a) relates to a person who—
 - (i) is convicted of a recordable offence other than a qualifying offence,
 - (ii) has not previously been convicted of a recordable offence, and
 - (iii) is aged under 18 at the time of the offence, and
 - (b) was taken (or, in the case of a DNA profile, derived from a sample taken) in connection with the investigation of the offence.

[In subsection (1)(a)(ii), the reference to a recordable offence includes an offence ^{F2}(1A) under the law of a country or territory outside England and Wales where the act constituting the offence would constitute a recordable offence if done in England and Wales (whether or not it constituted such an offence when the person was convicted).]

- (2) Where the person is given a relevant custodial sentence of less than 5 years in respect of the offence, the material may be retained until the end of the period consisting of the term of the sentence plus 5 years.
- (3) Where the person is given a relevant custodial sentence of 5 years or more in respect of the offence, the material may be retained indefinitely.
- (4) Where the person is given a sentence other than a relevant custodial sentence in respect of the offence, the material may be retained until—
 - (a) in the case of fingerprints, the end of the period of 5 years beginning with the date on which the fingerprints were taken, and
 - (b) in the case of a DNA profile, the end of the period of 5 years beginning with—

Changes to legislation: *Police and Criminal Evidence Act 1984, Section 63K is up to date with all changes known to be in force on or before 10 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- (i) the date on which the DNA sample from which the profile was derived was taken, or
 - (ii) if the profile was derived from more than one DNA sample, the date on which the first of those samples was taken.
- (5) But if, before the end of the period within which material may be retained by virtue of this section, the person is again convicted of a recordable offence, the material may be retained indefinitely.
- [In subsection (5), the reference to a recordable offence includes an offence under the ^{F3}(5A) law of a country or territory outside England and Wales where the act constituting the offence would constitute a recordable offence if done in England and Wales.]
- (6) In this section, “relevant custodial sentence” means any of the following—
- (a) a custodial sentence within the meaning of section 76 of the Powers of Criminal Courts (Sentencing) Act 2000 [^{F4}or section 222 of the Sentencing Code];
 - (b) a sentence of a period of detention and training (excluding any period of supervision) which a person is liable to serve under an order under section 211 of the Armed Forces Act 2006 or a secure training order.]

Textual Amendments

- F1** S. 63K inserted (31.10.2013) by [Protection of Freedoms Act 2012 \(c. 9\)](#), **ss. 7, 120** (with s. 97); S.I. 2013/1814, art. 2(a)
- F2** S. 63K(1A) inserted (31.1.2017 for specified purposes, 3.4.2017 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\)](#), **ss. 70(8)**, 183(1)(5)(e); S.I. 2017/399, reg. 2, Sch. para. 20 (with reg. 6)
- F3** S. 63K(5A) inserted (31.1.2017 for specified purposes, 3.4.2017 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\)](#), **ss. 70(9)**, 183(1)(5)(e); S.I. 2017/399, reg. 2, Sch. para. 20 (with reg. 6)
- F4** Words in s. 63K(6)(a) inserted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 24 para. 79** (with Sch. 27); S.I. 2020/1236, reg. 2

Modifications etc. (not altering text)

- C1** S. 63K applied (with modifications) (4.11.2015) by [The Police and Criminal Evidence Act 1984 \(Application to Revenue and Customs\) Order 2015 \(S.I. 2015/1783\)](#), arts. 1, 3(1), **Sch. 1** (with art. 3(2), (3), 4-19, Sch. 2)

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 17(1)(cza) inserted by [2021 c. 17 s. 26\(9\)](#)
- s. 47A(3A) substituted by [2022 c. 35 Sch. 2 para. 7](#)
- s. 61(6BA) inserted by [2008 c. 28 s. 10\(1\)](#) (This amendment not applied to legislation.gov.uk. S. 10 omitted (14.12.2011) by virtue of 2011 c. 23, ss. 29, 31(2), Sch. 7 para. 5(3))
- s. 63(3D) inserted by [2008 c. 28 s. 10\(2\)](#) (This amendment not applied to legislation.gov.uk. S. 10 omitted (14.12.2011) by virtue of 2011 c. 23, ss. 29, 31(2), Sch. 7 para. 5(3))
- s. 64(1AA) inserted by [2008 c. 28 s. 10\(4\)](#) (This amendment not applied to legislation.gov.uk. S. 10 omitted (14.12.2011) by virtue of 2011 c. 23, ss. 29, 31(2), Sch. 7 para. 5(3))
- s. 64A(1B)(cb) inserted by [2022 c. 32 Sch. 11 para. 18\(a\)](#)
- Sch. 1A para. 21A added by 1995 c. 32, s. 8B(1) (as inserted) by [2006 c. 12 Sch. 3 para. 13](#)