



Protection of Freedoms Act 2012

CHAPTER 9

PROTECTION OF FREEDOMS ACT 2012

PART 1

REGULATION OF BIOMETRIC DATA

CHAPTER 1

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- 2 Material retained pending investigation or proceedings
- 3 Persons arrested for or charged with a qualifying offence
- 4 Persons arrested for or charged with a minor offence
- 5 Persons convicted of a recordable offence
- 6 Persons convicted of an offence outside England and Wales
- 7 Persons under 18 convicted of first minor offence
- 8 Persons given a penalty notice
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- 10 Material given voluntarily
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- 12 Material obtained for one purpose and used for another
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- 14 Destruction of samples

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- 19 Amendments of regimes other than PACE

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- 70 Information for purposes of making barring decisions
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- 73 Duty to check whether person barred
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- 78 Corresponding amendments in relation to Northern Ireland

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- 82 Enhanced criminal record certificates: additional safeguards

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- 83 Up-dating certificates
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- 95 Effect of disregard on police and other records
- 96 Effect of disregard for disclosure and other purposes
- 97 Saving for Royal pardons etc.
- 98 Section 96: supplementary

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- 99 Appeal against refusal to disregard convictions or cautions
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- 102 Release and publication of datasets held by public authorities

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- 103 Meaning of “publicly-owned company”
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- 105 Appointment and tenure of Information Commissioner
106 Alteration of role of Secretary of State in relation to guidance powers
107 Removal of Secretary of State consent for fee-charging powers etc.
108 Removal of Secretary of State approval for staff numbers, terms etc.

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MISCELLANEOUS AND GENERAL

Trafficking people for exploitation

- 109 Trafficking people for sexual exploitation
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- 111 Offences in relation to stalking
112 Power of entry in relation to stalking

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- 113 Repeal of provisions for conducting certain fraud cases without jury
114 Removal of restrictions on times for marriage or civil partnership

General

- 115 Consequential amendments, repeals and revocations
116 Transitional, transitory or saving provision
117 Financial provisions
118 Channel Islands and Isle of Man
119 Extent
120 Commencement
121 Short title

SCHEDULES**SCHEDULE 1 — Amendments of regimes other than PACE****Part 1 — MATERIAL SUBJECT TO THE TERRORISM ACT 2000**

- 1 (1) Schedule 8 to the Terrorism Act 2000 (treatment of...

Part 2 — MATERIAL SUBJECT TO THE INTERNATIONAL CRIMINAL COURT ACT 2001

- 2 In Schedule 4 of the International Criminal Court Act 2001...

Part 3 — MATERIAL SUBJECT TO SECTION 18 OF THE COUNTER-TERRORISM ACT 2008

- 3 The Counter-Terrorism Act 2008 is amended as follows.

- 4 For section 18 (material not subject to existing statutory restrictions)...
Part 4 — MATERIAL SUBJECT TO THE TERRORISM PREVENTION AND INVESTIGATION MEASURES ACT 2011
- 5 After paragraph 10(2) of Schedule 6 to the Terrorism Prevention...
Part 5 — MATERIAL SUBJECT TO THE CRIMINAL PROCEDURE (SCOTLAND) ACT 1995
- 6 (1) The Criminal Procedure (Scotland) Act 1995 is amended as...
Part 6 — MATERIAL SUBJECT TO THE POLICE AND CRIMINAL EVIDENCE (NORTHERN IRELAND) ORDER 1989
- 7 (1) This paragraph applies to the following material—
Part 7 — CORRESPONDING NORTHERN IRELAND PROVISION FOR EXCEPTED OR RESERVED MATTERS ETC.
- 8 (1) The Secretary of State may make an order under...

SCHEDULE 2 — Repeals etc. of powers of entry

Part 1 — WATER AND ENVIRONMENT

- 1 Public Health (Control of Disease) Act 1984
 - 2 Merchant Shipping Act 1995
 - 3 Environment Act 1995
- ##### Part 2 — AGRICULTURE
- 4 Dairy Herd Conversion Premium Regulations 1973 (S.I. 1973/1642)
 - 5 Milk (Cessation of Production) Act 1985
 - 6 Cereals Co-responsibility Levy Regulations 1988 (S.I. 1988/1001)
 - 7 Oilseeds Producers (Support System) Regulations 1992 (S.I. 1992/695)
 - 8 Older Cattle (Disposal) (England) Regulations 2005 (S.I. 2005/3522)
 - 9 Salmonella in Turkey Flocks and Slaughter Pigs (Survey Powers) (England) Regulations 2006 (S.I. 2006/2821)
- ##### Part 3 — MISCELLANEOUS
- 10 Distribution of German Enemy Property (No 1) Order 1950 (S.I. 1950/1642)
 - 11 Hypnotism Act 1952
 - 12 Landlord and Tenant Act 1985
 - 13 Gas Appliances (Safety) Regulations 1995 (S.I. 1995/1629)
 - 14 Cross-border Railway Services (Working Time) Regulations 2008 (2008/1660)
 - 15 Payment Services Regulations 2009 (S.I. 2009/209)

SCHEDULE 3 — Corresponding code of practice for Welsh devolved powers of entry

- 1 Code of practice
- 2 Issuing of code
- 3 Alteration or replacement of code
- 4 Publication of code
- 5 Effect of code
- 6 Interpretation

SCHEDULE 4 — Recovery of unpaid parking charges

- 1 Introductory
- 2 (1) In this Schedule— “the appropriate national authority” means— in...
- 3 (1) In this Schedule “relevant land” means any land (including...
- 4 Right to claim unpaid parking charges from keeper of vehicle
- 5 Conditions that must be met for purposes of paragraph 4
- 6 (1) The second condition is that the creditor (or a...

- 7 (1) A notice which is to be relied on as...
- 8 (1) A notice which is to be relied on as...
- 9 (1) A notice which is to be relied on as...
- 10 (1) The appropriate national authority may by regulations made by...
- 11 (1) The third condition is that— (a) the creditor (or...
- 12 (1) The fourth condition is that any applicable requirements prescribed...
- 13 Hire vehicles
- 14 (1) If— (a) the creditor is by virtue of paragraph...
- 15 Application to Crown vehicles etc
- 16 Power to amend Schedule
- 17 Parliamentary procedure

SCHEDULE 5 — Replacement powers to stop and search: supplementary provisions

SCHEDULE 6 — Stop and search powers: Northern Ireland

- 1 (1) Paragraph 4 of Schedule 3 to the Justice and...
- 2 After paragraph 4 of that Schedule to that Act insert—...
- 3 In paragraph 9(1) of that Schedule to that Act (offence...

SCHEDULE 7 — Safeguarding of vulnerable groups: Northern Ireland

- 1 Restriction of scope of regulated activities: children
- 2 Restriction of definition of vulnerable adults
- 3 Restriction of scope of regulated activities: vulnerable adults
- 4 Alteration of test for barring decisions
- 5 Abolition of controlled activity
- 6 Abolition of monitoring
- 7 Information for purposes of making barring decisions
- 8 Review of barring decisions
- 9 Information about barring decisions
- 10 Duty to check whether person barred
- 11 Restrictions on duplication with barred lists in England and Wales and Scotland
- 12 Professional bodies
- 13 Supervisory authorities
- 14 Minor amendments

SCHEDULE 8 — Disclosure and Barring Service

- 1 Membership
- 2 Terms of appointment of members
- 3 Remuneration etc: members
- 4 Staff
- 5 Remuneration, pensions etc of staff
- 6 Delegation of functions
- 7 DBS may, to such extent as it may decide, delegate...
- 8 (1) In this Schedule a core function is—
- 9 Business plans
- 10 Reports
- 11 Funding
- 12 Accounts
- 13 Guidance
- 14 Directions
- 15 Status

- 16 Use of information
- 17 Payments in connection with maladministration
- 18 Incidental powers
- 19 Documents
- 20 Transitional

SCHEDULE 9 — Consequential amendments

Part 1 — DESTRUCTION, RETENTION AND USE OF FINGERPRINTS ETC.

- 1 House of Commons Disqualification Act 1975
- 2 Northern Ireland Assembly Disqualification Act 1975
- 3 Police and Criminal Evidence Act 1984
- 4 Crime and Security Act 2010

Part 2 — THE SURVEILLANCE CAMERA COMMISSIONER

- 5 House of Commons Disqualification Act 1975

Part 3 — SAFEGUARDS FOR CERTAIN SURVEILLANCE UNDER RIPA

- 6 Regulation of Investigatory Powers Act 2000
- 7 In section 22(6) (duty of postal or telecommunications operator to...
- 8 After section 23(2) (form and duration of authorisations and notices...
- 9 (1) Section 43 (general rules about grant, renewal and duration...
- 10 (1) Section 57 (Interception of Communications Commissioner) is amended as...
- 11 After section 62(2) (functions of Chief Surveillance Commissioner) insert—
- 12 (1) Section 65 (the Tribunal) is amended as follows.
- 13 In section 67(7) (powers of the Tribunal), at the end...
- 14 In section 71(2) (issue and revision of codes of practice)...
- 15 After section 77 (Ministerial expenditure etc.) insert— Procedure for order...
- 16 In section 78 (orders, regulations and rules)—
- 17 After section 81(8) (general interpretation) insert— (9) References in this...

Part 4 — VEHICLES LEFT ON LAND

- 18 Road Traffic Regulation Act 1984
- 19 Airports Act 1986
- 20 Private Security Industry Act 2001

Part 5 — COUNTER-TERRORISM POWERS

- 21 Police and Criminal Evidence Act 1984
- 22 Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12))
- 23 Terrorism Act 2000
- 24 In the italic cross-heading before section 40, after “Suspected terrorists”...
- 25 (1) Section 123 (orders and regulations) is amended as follows....
- 26 (1) Schedule 8 (detention) is amended as follows.
- 27 Regulation of Investigatory Powers Act 2000
- 28 Criminal Justice and Police Act 2001
- 29 In Part 2 of that Schedule to that Act (powers...
- 30 Police Reform Act 2002
- 31 Police (Northern Ireland) Act 2003
- 32 Terrorism Act 2006
- 33 Counter-Terrorism Act 2008
- 34 Terrorism Act 2000 (Remedial) Order 2011 (S.I. 2011/631)

Part 6 — SAFEGUARDING OF VULNERABLE GROUPS

Status: This is the original version (as it was originally enacted).

- 35 Police Act 1997
- 36 In section 113A (criminal record certificates) omit subsection (10).
- 37 In section 113B (enhanced criminal record certificates) omit subsection (13)....
- 38 In section 113BA(2) (suitability information relating to children) omit paragraphs...
- 39 In section 113BB(2) (suitability information relating to vulnerable adults) omit...
- 40 (1) Section 119 (sources of information) is amended as follows....
- 41 In section 119B(5) (independent monitor) omit paragraphs (d) and (e)....
- 42 (1) Section 120A (refusal and cancellation of registration on grounds...
- 43 Safeguarding Vulnerable Groups Act 2006
- 44 In section 4(1) (appeals)— (a) omit paragraph (a),
- 45 In section 5(4) (regulated activity)— (a) omit “section 10(3);”, and...
- 46 In section 6(8) (regulated activity providers)— (a) in paragraph (a),...
- 47 In section 7(5) (barred person not to engage in regulated...
- 48 Omit section 8 (person not to engage in regulated activity)...
- 49 In section 9(5) (use of barred person for regulated activity)...
- 50 Omit section 10 (use of person not subject to monitoring)...
- 51 Omit section 11 and Schedule 5 (regulated activity provider: failure...
- 52 Omit section 12 and Schedule 6 (personnel suppliers: failure to...
- 53 Omit section 13 (educational establishments: check on members of governing...
- 54 Omit section 14 (office holders: offences).
- 55 Omit section 15 (sections 13 and 14: checks).
- 56 Omit section 16 (exception to requirement to make monitoring check)....
- 57 Omit section 17 (NHS employment).
- 58 (1) Section 18 (offences: companies etc.) is amended as follows....
- 59 (1) Section 19 (offences: other persons) is amended as follows....
- 60 In section 20 (section 19: exclusions and defences) omit subsections...
- 61 In section 35 (regulated activity providers: duty to refer)—
- 62 (1) Section 36 (personnel suppliers: duty to refer) is amended...
- 63 (1) Section 37 (regulated activity providers: duty to provide information...
- 64 In section 41(7) (registers: duty to refer), in the table,...
- 65 (1) Section 50A (provision of information to the police) is...
- 66 In section 51(5) (Crown application) omit paragraph (b).
- 67 (1) Section 54 (devolution: alignment) is amended as follows.
- 68 (1) Section 56 (devolution: Wales) is amended as follows.
- 69 In section 57(1)(c) (damages) omit “prescribed”.
- 70 (1) Section 60 (interpretation) is amended as follows.
- 71 In section 61(3) (orders and regulations)— (a) omit paragraphs (b)...
- 72 (1) Schedule 3 (barred lists) is amended as follows.
- 73 (1) Schedule 7 (vetting information) is amended as follows.
- 74 In Schedule 8 (transitional provisions) omit paragraph 5.
- 75 Safeguarding Vulnerable Groups (Northern Ireland) Order 2007
- 76 (1) Article 2 (interpretation) is amended as follows.
- 77 In Article 8(1) (appeals)— (a) omit sub-paragraph (a),
- 78 In Article 9(4) (regulated activity), omit sub-paragraphs (c) and (e)....
- 79 In Article 10(8) (regulated activity providers)— (a) omit sub-paragraphs (a)...
- 80 In Article 11(5) (barred person not to engage in regulated...
- 81 Omit Article 12 (person not to engage in regulated activity)...

- 82 In Article 13(5) (use of barred person for regulated activity)...
- 83 Omit Article 14 (use of person not subject to monitoring...
- 84 Omit Article 15 and Schedule 3 (regulated activity provider: failure...
- 85 Omit Article 16 and Schedule 4 (personnel suppliers: failure to...
- 86 Omit Article 17 (educational establishments: check on members of governing...
- 87 Omit Article 18 (office holders: offences).
- 88 Omit Article 19 (Articles 17 and 18: checks).
- 89 Omit Article 20 (exception to requirement to make monitoring check)....
- 90 Omit Article 21 (HSS employment).
- 91 (1) Article 22 (offences: companies etc.) is amended as follows....
- 92 (1) Article 23 (offences: other persons) is amended as follows....
- 93 In Article 24 (Article 23: exclusions and defences), omit paragraphs...
- 94 In Article 37 (regulated activity providers: duty to refer)—
- 95 (1) Article 38 (personnel suppliers: duty to refer) is amended...
- 96 (1) Article 39 (regulated activity providers: duty to provide information...
- 97 (1) Article 52A (provision of information to the police) is...
- 98 In Article 53(5) (Crown application), omit sub-paragraph (b).
- 99 (1) Article 56 (alignment with rest of UK) is amended...
- 100 In Article 57(1)(c) (damages) omit “prescribed”.
- 101 (1) Schedule 1 (barred lists) is amended as follows.
- 102 (1) Schedule 5 (vetting information) is amended as follows.
- 103 In Schedule 6 (transitional provisions) omit paragraph 5.
Part 7 — CRIMINAL RECORDS
- 104 Police Act 1997
- 105 In section 113BC(1) (suitability information: power to amend), after paragraph...
- 106 In section 114(3) (application of other provisions of Part 5...
- 107 In section 116(3) (application of other provisions of Part 5...
- 108 (1) Section 117 (disputes about accuracy of certificates) is amended...
- 109 (1) Section 118 (evidence of identity) is amended as follows....
- 110 (1) Section 119 (sources of information) is amended as follows....
- 111 (1) Section 119B (independent monitor) is amended as follows.
- 112 (1) Section 120 (registered persons) is amended as follows.
- 113 After section 122(1) (code of practice) insert—
- 114 Omit section 122(3A)(a) (power of Secretary of State to refuse...
- 115 (1) Section 124 (offences: disclosure) is amended as follows.
- 116 (1) Section 124A (offences relating to disclosure of information obtained...
- 117 After section 125B(2) (form of applications) insert—
- 118 In section 126(1) (interpretation of Part 5), in the definition...
- 119 Gambling Act 2005
- 120 National Health Service Act 2006
- 121 In section 129(6) (regulations as to pharmaceutical services), in paragraph...
- 122 In section 132(4) (persons authorised to provide pharmaceutical services), in...
- 123 In section 147A(3) (performers of pharmaceutical services and assistants), in...
- 124 National Health Service (Wales) Act 2006
- 125 In section 72(3) (regulations as to general ophthalmic services), in...

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- 126 In section 83(6) (regulations as to pharmaceutical services), in paragraph...
- 127 In section 86(4) (persons authorised to provide pharmaceutical services), in...
- 128 In section 105(3) (supplementary lists), in paragraph (g), for the...
- 129 Safeguarding Vulnerable Groups Act 2006
Part 8 — THE DISCLOSURE AND BARRING SERVICE
- 130 Parliamentary Commissioner Act 1967
- 131 House of Commons Disqualification Act 1975
- 132 Northern Ireland Assembly Disqualification Act 1975
- 133 Freedom of Information Act 2000
Part 9 — DISREGARDING CERTAIN CONVICTIONS FOR BUGGERY ETC.
- 134 Rehabilitation of Offenders Act 1974
- 135 Police Act 1997
Part 10 — TRAFFICKING PEOPLE FOR EXPLOITATION
- 136 Children and Young Persons Act 1933
- 137 Police and Criminal Evidence Act 1984
- 138 Proceeds of Crime Act 2002
- 139 Criminal Justice Act 2003
- 140 Sexual Offences Act 2003
- 141 Asylum and Immigration (Treatment of Claimants, etc) Act 2004
- 142 Serious Crime Act 2007
Part 11 — STALKING
- 143 Protection from Harassment Act 1997
- 144 Crime and Disorder Act 1998
- 145 Criminal Justice and Police Act 2001
- 146 Sexual Offences Act 2003
- 147 Criminal Justice Act 2003
Part 12 — REPEAL OF PROVISIONS FOR CONDUCTING CERTAIN FRAUD CASES WITHOUT JURY
- 148 Criminal Justice Act 2003
- SCHEDULE 10 — Repeals and revocations
- Part 1 — DESTRUCTION, RETENTION AND USE OF FINGERPRINTS ETC.
- Part 2 — POWERS OF ENTRY
- Part 3 — VEHICLES LEFT ON LAND
- Part 4 — COUNTER-TERRORISM POWERS
- Part 5 — SAFEGUARDING OF VULNERABLE GROUPS
- Part 6 — CRIMINAL RECORDS
- Part 7 — FREEDOM OF INFORMATION
- Part 8 — THE INFORMATION COMMISSIONER
- Part 9 — TRAFFICKING PEOPLE FOR EXPLOITATION
- Part 10 — REPEAL OF PROVISIONS FOR CONDUCTING CERTAIN FRAUD CASES WITHOUT JURY
- Part 11 — REMOVAL OF RESTRICTIONS ON TIMES FOR MARRIAGE OR CIVIL PARTNERSHIP