

*These notes refer to the Anti-Social Behaviour, Crime and Policing Act 2014 (c.12) which received Royal Assent on 13 March 2014*

# **ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2014**

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## **EXPLANATORY NOTES**

### **BACKGROUND**

#### **Part 11: Policing etc**

##### **Power to retain fingerprints or DNA profile in connection with different offence**

62. Section 63P of PACE, which was inserted into PACE by the Protection of Freedoms Act 2012, provides that where biometrics (DNA profiles and fingerprints) taken in the investigation of one offence lead to the person being arrested, charged or convicted of a different offence, they may be retained as if the biometrics had been taken in connection with the latter offence. For example, a person may be arrested for offence A and have their biometrics taken, then be investigated for offence B. No further action is taken in relation to offence A, but the person is prosecuted and convicted of offence B. The power to retain biometrics taken from a convicted person applies in this case, but only if the biometrics taken for offence A “lead to” the person being arrested for or charged with offence B. If there is no such causal link, the biometrics cannot be retained. This has particular implications for the retention of DNA profiles, as DNA is generally not taken more than once (to avoid unnecessary costs) whereas fingerprints are taken on each arrest, as they are used to verify identity as well as to check on possible links to crime scenes. If section 63P had been brought into force without qualification, DNA profiles taken in the past from many convicted persons could no longer be held. The [Protection of Freedoms Act 2012 \(Destruction, Retention and Use of Biometric Data\) \(Transitional, Transitory and Saving Provisions\) \(Amendment\) \(No. 2\) Order 2013 \(SI 2013/2770\)](#) made transitional provisions to address this until 30 September 2014. Section 145 makes these arrangements permanent.