

Changes to legislation: There are currently no known outstanding effects for the Counter-Terrorism and Border Security Act 2019, Cross Heading: Police and Criminal Evidence Act 1984. (See end of Document for details)

SCHEDULES

SCHEDULE 2

RETENTION OF BIOMETRIC DATA FOR COUNTER-TERRORISM PURPOSES ETC

Police and Criminal Evidence Act 1984

1 The Police and Criminal Evidence Act 1984 is amended as follows.

Commencement Information

II Sch. 2 para. 1 in force at 13.8.2020 by S.I. 2020/792, reg. 2(e)

- 2 (1) Section 63F (retention of section 63D material: persons arrested for or charged with a qualifying offence) is amended as follows.
- (2) In subsection (3), for “or (5)” substitute “, (5) or (5A) ”.
- (3) In subsection (5)(a), after “qualifying offence” insert “, other than a terrorism-related qualifying offence, ”.
- (4) After subsection (5) insert—
- “(5A) Material falls within this subsection if—
- (a) it relates to a person who is arrested for a terrorism-related qualifying offence but is not charged with that offence, and
- (b) it was taken (or, in the case of a DNA profile, derived from a sample taken) in connection with the investigation of the offence.”
- (5) In subsection (11), after the definition of “a specified chief officer of police” insert—
- ““terrorism-related qualifying offence” means—
- (a) an offence for the time being listed in section 41(1) of the Counter-Terrorism Act 2008 (see section 65A(2)(r) below), or
- (b) an ancillary offence, as defined by section 65A(5) below, relating to an offence for the time being listed in section 41(1) of that Act.”

Commencement Information

I2 Sch. 2 para. 2 in force at 13.8.2020 by S.I. 2020/792, reg. 2(e)

- 3 (1) Section 63M (retention of section 63D material for purposes of national security) is amended as follows.
- (2) In subsection (1), for “the responsible” substitute “ a ”.
- (3) In subsection (2), for “the responsible” substitute “ a ”.

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(4) In subsection (3)(b), for “2 years” substitute “ 5 years ”.

Commencement Information

I3 Sch. 2 para. 3 in force at 13.8.2020 by S.I. 2020/792, reg. 2(e)

4 After section 63P insert—

“63PA Retention of further sets of fingerprints

- (1) This section applies where section 63D material is or includes a person's fingerprints (“the original fingerprints”).
- (2) A constable may make a determination under this section in respect of any further fingerprints taken from the same person (“the further fingerprints”) if any of conditions 1 to 3 are met.
- (3) Condition 1 is met if—
 - (a) the further fingerprints are section 63D material, and
 - (b) the further fingerprints or the original fingerprints were taken in connection with a terrorist investigation.
- (4) Condition 2 is met if the further fingerprints were taken from the person in England or Wales under—
 - (a) paragraph 10 of Schedule 8 to the Terrorism Act 2000,
 - (b) paragraph 1 of Schedule 6 to the Terrorism Prevention and Investigation Measures Act 2011, or
 - (c) paragraph 34 of Schedule 3 to the Counter-Terrorism and Border Security Act 2019.
- (5) Condition 3 is met if the further fingerprints—
 - (a) are material to which section 18 of the Counter-Terrorism Act 2008 applies, and
 - (b) are held under the law of England and Wales.
- (6) Where a determination under this section is made in respect of the further fingerprints—
 - (a) the further fingerprints may be retained for as long as the original fingerprints are retained under a power conferred by sections 63E to 63O (including those sections as applied by section 63P), and
 - (b) a requirement under any enactment to destroy the further fingerprints does not apply for as long as their retention is authorised by paragraph (a).
- (7) Subsection (6)(a) does not prevent the further fingerprints being retained after the original fingerprints fall to be destroyed if the continued retention of the further fingerprints is authorised under any enactment.
- (8) A written record must be made of a determination under this section.”

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Commencement Information

I4 Sch. 2 para. 4 in force at 13.8.2020 by S.I. 2020/792, reg. 2(e)

Changes to legislation:

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