

**Changes to legislation:** There are currently no known outstanding effects for the Counter-Terrorism and Border Security Act 2019, Cross Heading: Terrorism Prevention and Investigation Measures Act 2011. (See end of Document for details)

## SCHEDULES

### SCHEDULE 2

#### RETENTION OF BIOMETRIC DATA FOR COUNTER-TERRORISM PURPOSES ETC

##### *Terrorism Prevention and Investigation Measures Act 2011*

- 15 Schedule 6 to the Terrorism Prevention and Investigation Measures Act 2011 (fingerprints and samples) is amended as follows.

#### **Commencement Information**

- II** Sch. 2 para. 15 in force at 13.8.2020 by S.I. 2020/792, reg. 2(e)

- 16 (1) Paragraph 11 is amended as follows.
- (2) In sub-paragraph (1), for “the responsible” substitute “ a ”.
- (3) In sub-paragraph (2), for “the responsible” substitute “ a ”.
- (4) in sub-paragraph (3)(b), for “2 years” substitute “ 5 years ”.
- (5) After sub-paragraph (3) insert—
- “ (4) In this paragraph “chief officer of police” means—
- (a) a chief officer of police of a police force in England and Wales,
- (b) the chief constable of the Police Service of Scotland, or
- (c) the Chief Constable of the Police Service of Northern Ireland.”

#### **Commencement Information**

- I2** Sch. 2 para. 16 in force at 13.8.2020 by S.I. 2020/792, reg. 2(e)

- 17 After paragraph 11 insert—
- “11A(1) This paragraph applies where paragraph 6 material is or includes a person's fingerprints (“the original fingerprints”).
- (2) A constable may make a determination under this paragraph in respect of any further fingerprints taken from, or provided by, the same person (“the further fingerprints”) if conditions 1 and 2 are met.
- (3) Condition 1 is met if the further fingerprints—
- (a) are paragraph 6 material,
- (b) are taken or provided under or by virtue of—
- (i) Part 5 of the Police and Criminal Evidence Act 1984,
- (ii) Article 61 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12)),
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- (iii) any provision, power or authority mentioned in section 18G(1) of the Criminal Procedure (Scotland) Act 1995,
  - (iv) paragraph 10 of Schedule 8 to the Terrorism Act 2000, or
  - (v) paragraph 34 of Schedule 3 to the Counter-Terrorism and Border Security Act 2019, or
  - (c) are material to which section 18 of the Counter-Terrorism Act 2008 applies.
- (4) Condition 2 is met if—
- (a) in a case where the further fingerprints are material to which section 18 of the Counter-Terrorism Act 2008 applies, the original fingerprints and the further fingerprints are held under the law of the same part of the United Kingdom;
  - (b) in any other case, the original fingerprints and the further fingerprints were taken from or provided by the person in the same part of the United Kingdom.
- (5) Where a determination under this paragraph 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 any power conferred by paragraph 8, 9 or 11, 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).
- (6) Sub-paragraph (5)(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.
- (7) A written record must be made of a determination under this paragraph.
- (8) In this paragraph—
- (a) “enactment” includes—
    - (i) an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament, and
    - (ii) an enactment comprised in, or in an instrument made under, Northern Ireland legislation;
  - (b) references to a part of the United Kingdom are references to—
    - (i) England and Wales,
    - (ii) Scotland, or
    - (iii) Northern Ireland.”

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**Commencement Information**

**I3** Sch. 2 para. 17 in force at 13.8.2020 by S.I. 2020/792, reg. 2(e)

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