

Changes to legislation: There are currently no known outstanding effects for the National Security Act 2023, Schedule 12. (See end of Document for details)

SCHEDULES

SCHEDULE 12

Section 58

FINGERPRINTS AND SAMPLES

Taking of fingerprints and samples: England, Wales and Northern Ireland

- 1 (1) [This paragraph](#) applies at any time when a [Part 2](#) notice is in force in respect of an individual in England, Wales or Northern Ireland.
- (2) A constable may take fingerprints or a non-intimate sample from the individual—
- (a) with the consent of the individual given in writing, or
 - (b) without that consent.
- (3) A constable may use reasonable force, if necessary, for the purpose of exercising the power under [sub-paragraph \(2\)\(b\)](#).
- (4) Before any fingerprints or a non-intimate sample are taken the individual must be informed—
- (a) of the reason for taking the fingerprints or sample,
 - (b) of the fact that the fingerprints or sample are taken under the power conferred by [this paragraph](#), and
 - (c) that the fingerprints or sample may be the subject of a relevant search.
- (5) The matters mentioned in [sub-paragraph \(4\)](#) must be recorded as soon as practicable after the fingerprints or non-intimate sample are taken.
- (6) The information mentioned in [sub-paragraph \(4\)](#) must be given by—
- (a) the constable taking the fingerprints or non-intimate sample, or
 - (b) if the fingerprints or non-intimate sample are taken at a police station (see [paragraph 3](#)), any other officer.
- (7) Where a sample of hair other than pubic hair is to be taken under [this paragraph](#), the sample may be taken either by cutting hairs or by plucking hairs with their roots so long as no more are plucked than the person taking the sample reasonably considers to be necessary for a sufficient sample.

Commencement Information

- II** Sch. 12 para. 1 not in force at Royal Assent, see 100(1)
I2 [Sch. 12 para. 1](#) in force at 20.12.2023 by [S.I. 2023/1272](#), [reg. 2\(b\)](#)

- 2 (1) A constable may exercise the power under [paragraph 1](#) to take fingerprints or a non-intimate sample from an individual only if at the time when the power is to be exercised—
- (a) in the case of fingerprints, the condition in [sub-paragraph \(2\)](#) is met;
 - (b) in the case of a sample, the condition in [sub-paragraph \(3\)](#) is met.

Changes to legislation: There are currently no known outstanding effects for the National Security Act 2023, Schedule 12. (See end of Document for details)

- (2) The condition in the case of fingerprints is that—
- (a) the individual has not had fingerprints taken under [paragraph 1](#) on a previous occasion after the time at which the present [Part 2](#) notice came into force, or
 - (b) fingerprints were so taken on a previous occasion after that time but—
 - (i) the fingerprints taken do not constitute a complete set of the individual's fingerprints, or
 - (ii) some or all of the fingerprints taken are not of sufficient quality to allow satisfactory analysis, comparison or matching.
- (3) The condition in the case of a non-intimate sample is that—
- (a) the individual has not had a sample of the same type and from the same part of the body taken under [paragraph 1](#) on a previous occasion after the time at which the present [Part 2](#) notice came into force, or
 - (b) a sample was so taken on a previous occasion after that time but it proved insufficient.
- (4) In [this paragraph](#) “the present [Part 2](#) notice” means the [Part 2](#) notice in force at the time when it is proposed to exercise the power to take the fingerprints or sample.

Commencement Information

- I3** Sch. 12 para. 2 not in force at Royal Assent, see 100(1)
I4 Sch. 12 para. 2 in force at 20.12.2023 by S.I. 2023/1272, reg. 2(b)

- 3 (1) A constable may—
- (a) require an individual to attend a police station for the purposes of taking fingerprints or a non-intimate sample from the individual under [paragraph 1](#), and
 - (b) arrest without warrant an individual who fails to comply with such a requirement.
- (2) A requirement under [sub-paragraph \(1\)\(a\)](#)—
- (a) must give the individual a period of at least 7 days within which the individual must attend the police station (subject to [sub-paragraph \(4\)](#)), and
 - (b) may direct the individual to attend at a specified time of day or between specified times of day.
- (3) In specifying a period or time or times of day for the purposes of [sub-paragraph \(2\)](#), the constable must consider whether the fingerprints or non-intimate sample could reasonably be taken at a time when the individual is for any other reason required to attend the police station (including, in particular, under measures imposed on the individual by virtue of [paragraph 11](#) of [Schedule 7](#)).
- (4) In giving a requirement under [this paragraph](#) a constable may specify a period of shorter than 7 days if—
- (a) there is an urgent need for the fingerprints or sample for the purposes of the investigation of an offence, and
 - (b) the shorter period is authorised by an officer of at least the rank of inspector.
- (5) Where an authorisation is given under [sub-paragraph \(4\)\(b\)](#)—
- (a) the fact of the authorisation, and

Changes to legislation: There are currently no known outstanding effects for the National Security Act 2023, Schedule 12. (See end of Document for details)

- (b) the reasons for giving it,
must be recorded as soon as practicable after it has been given.
- (6) If the constable who gives a requirement to an individual under [this paragraph](#) and the individual agree, it may be varied so as to specify any period within which, or date or time at which, the individual must attend; but a variation does not have effect unless confirmed by the constable in writing.

Commencement Information

- I5** Sch. 12 para. 3 not in force at Royal Assent, see 100(1)
I6 [Sch. 12 para. 3](#) in force at 20.12.2023 by [S.I. 2023/1272](#), [reg. 2\(b\)](#)

Commencement Information

- I1** Sch. 12 para. 1 not in force at Royal Assent, see 100(1)
I2 [Sch. 12 para. 1](#) in force at 20.12.2023 by [S.I. 2023/1272](#), [reg. 2\(b\)](#)
I3 Sch. 12 para. 2 not in force at Royal Assent, see 100(1)
I4 [Sch. 12 para. 2](#) in force at 20.12.2023 by [S.I. 2023/1272](#), [reg. 2\(b\)](#)
I5 Sch. 12 para. 3 not in force at Royal Assent, see 100(1)
I6 [Sch. 12 para. 3](#) in force at 20.12.2023 by [S.I. 2023/1272](#), [reg. 2\(b\)](#)

Taking of relevant physical data and samples: Scotland

- 4 (1) [This paragraph](#) applies at any time when a [Part 2](#) notice is in force in respect of an individual in Scotland.
- (2) A constable may—
- take from the individual, or require the individual to provide, any relevant physical data;
 - with the authority of an officer of a rank no lower than inspector, take from the individual any sample mentioned in paragraph (a), (b) or (c) of subsection (6) of section 18 of the Criminal Procedure (Scotland) Act 1995 (prints, samples etc in criminal investigations) by the means specified in that paragraph in relation to the sample;
 - take, or direct a police custody and security officer to take, from the individual a sample mentioned in subsection (6A) of that section by the means specified in that subsection.
- (3) A constable may—
- require the individual to attend a police station for the purposes mentioned in [sub-paragraph \(2\)](#), and
 - arrest without warrant an individual who fails to comply with such a requirement.
- (4) A requirement under [sub-paragraph \(3\)\(a\)](#)—
- must give the individual at least 7 days' notice of the date on which the individual is required to attend the police station, and
 - may direct the individual to attend at a specified time of day or between specified times of day.

Changes to legislation: There are currently no known outstanding effects for the National Security Act 2023, Schedule 12. (See end of Document for details)

- (5) In specifying a date or time or times of day for the purposes of [sub-paragraph \(4\)](#), the constable must consider whether the relevant physical data or sample could reasonably be taken at a time when the individual is for any other reason required to attend the police station (including, in particular, under measures imposed on the individual by virtue of [paragraph 11](#) of [Schedule 7](#)).
- (6) A constable may use reasonable force, if necessary, in—
- (a) taking any relevant physical data under [sub-paragraph \(2\)\(a\)](#),
 - (b) securing compliance with a requirement imposed by the constable under that sub-paragraph, or
 - (c) taking any sample under [sub-paragraph \(2\)\(b\)](#).
- (7) A constable may, with the authority of an officer of a rank no lower than inspector, use reasonable force, if necessary, in taking any sample under [sub-paragraph \(2\)\(c\)](#).
- (8) In [this paragraph](#) “police custody and security officer” has the same meaning as in Part 1 of the [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#) (see section 99 of that Act).

Commencement Information

I7 Sch. 12 para. 4 not in force at Royal Assent, see 100(1)

I8 Sch. 12 para. 4 in force at 20.12.2023 by [S.I. 2023/1272](#), [reg. 2\(b\)](#)

Checking of fingerprints, samples etc

- 5 Any fingerprints, data or samples obtained under [paragraph 1](#) or [4](#), or information derived from such samples, may be checked against—
- (a) other such fingerprints, data or samples or any information derived from such samples;
 - (b) any fingerprints or samples taken under [paragraph 10](#) or [12](#) of [Schedule 6](#) or any information derived from such samples;
 - (c) any fingerprints, samples or information mentioned in section 63A(1)(a) or (b) of the Police and Criminal Evidence Act 1984;
 - (d) any fingerprints, samples or information mentioned in Article 63A(1)(a) and (b) of the Police and Criminal Evidence (Northern Ireland) Order 1989 ([S.I. 1989/1341 \(N.I. 12\)](#));
 - (e) any fingerprints or samples taken under [paragraph 10](#) or [12](#) of [Schedule 8](#) to the Terrorism Act 2000 or any information derived from such samples;
 - (f) any of the relevant physical data, samples or information mentioned in section 19C(1) of the Criminal Procedure (Scotland) Act 1995;
 - (g) any of the relevant physical data, samples or information held by virtue of section 56 of the [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#);
 - (h) material to which section 18 of the Counter-Terrorism Act 2008 applies;
 - (i) any of the fingerprints, data or samples obtained under [paragraph 1](#) or [4](#) of [Schedule 6](#) to the Terrorism Prevention and Investigation Measures Act 2011, or information derived from such samples;
 - (j) any fingerprints or samples taken under [paragraph 34](#) of [Schedule 3](#) to the Counter-Terrorism and Border Security Act 2019 or any information derived from such samples.

Changes to legislation: There are currently no known outstanding effects for the National Security Act 2023, Schedule 12. (See end of Document for details)

Commencement Information

- I9** Sch. 12 para. 5 not in force at Royal Assent, see 100(1)
I10 Sch. 12 para. 5 in force at 20.12.2023 by S.I. 2023/1272, reg. 2(b)

Requirement to destroy material

- 6 (1) **This paragraph** applies to—
- (a) fingerprints taken under **paragraph 1**,
 - (b) a DNA profile derived from a DNA sample taken under that paragraph,
 - (c) relevant physical data taken or provided under **paragraph 4**,
 - (d) a DNA profile derived from a DNA sample taken under that paragraph.
- (2) Fingerprints, relevant physical data and DNA profiles to which **this paragraph** applies (“**paragraph 6** material”) must be destroyed if it appears to the responsible chief officer of police that the taking or providing of the material or, in the case of a DNA profile, the taking of the sample from which the DNA profile was derived, was unlawful.
- (3) In any other case, **paragraph 6** material must be destroyed unless it is retained under a power conferred by **paragraph 8**, **9**, or **11**.
- (4) **Paragraph 6** material that ceases to be retained under a power mentioned in **sub-paragraph (3)** may continue to be retained under any other such power that applies to it.
- (5) Nothing in **this paragraph** prevents a relevant search from being carried out, in relation to **paragraph 6** material, within such time as may reasonably be required for the search if the responsible chief officer of police considers the search to be desirable.

Commencement Information

- I11** Sch. 12 para. 6 not in force at Royal Assent, see 100(1)
I12 Sch. 12 para. 6 in force at 20.12.2023 by S.I. 2023/1272, reg. 2(b)

- 7 (1) If fingerprints or relevant physical data are required by **paragraph 6** to be destroyed, any copies of the fingerprints or data held by a police force must also be destroyed.
- (2) If a DNA profile is required by that paragraph to be destroyed, no copy may be retained by a police force except in a form which does not include information which identifies the individual to whom the DNA profile relates.

Commencement Information

- I13** Sch. 12 para. 7 not in force at Royal Assent, see 100(1)
I14 Sch. 12 para. 7 in force at 20.12.2023 by S.I. 2023/1272, reg. 2(b)

Commencement Information

- I11** Sch. 12 para. 6 not in force at Royal Assent, see 100(1)

Changes to legislation: There are currently no known outstanding effects for the National Security Act 2023, Schedule 12. (See end of Document for details)

- I12** Sch. 12 para. 6 in force at 20.12.2023 by S.I. 2023/1272, reg. 2(b)
I13 Sch. 12 para. 7 not in force at Royal Assent, see 100(1)
I14 Sch. 12 para. 7 in force at 20.12.2023 by S.I. 2023/1272, reg. 2(b)

Retention of paragraph 6 material

- 8 (1) **This paragraph** applies to **paragraph 6** material taken from, or provided by, an individual who has no previous convictions or (in the case of England and Wales or Northern Ireland) only one exempt conviction.
- (2) **The material** may be retained until the end of the period of 6 months beginning with the date on which the **Part 2** notice that was in force when the material was taken ceases to be in force (subject to **sub-paragraphs (3) and (4)**).
- (3) If, before the end of that period, the **Part 2** notice is quashed by the court under this Part, the material may be retained only until there is no possibility of an appeal against—
- (a) the decision to quash the notice, or
 - (b) any decision made on an appeal against that decision.
- (4) If, after a **Part 2** notice is quashed or otherwise ceases to be in force, measures are imposed on the individual (whether by the revival of a **Part 2** notice or the imposition of a new **Part 2** notice)—
- (a) within the period for which material in relation to the individual is retained by virtue of **sub-paragraph (2)**, or
 - (b) within, or immediately after the end of, the period for which such material is retained by virtue of **sub-paragraph (3)**,
- sub-paragraphs (2) and (3)** apply again for the purposes of the retention of that material (taking references to the **Part 2** notice as references to the revived or new **Part 2** notice).
- (5) In determining whether there is no further possibility of an appeal against a decision of the kind mentioned in **sub-paragraph (3)**, any power to extend the time for giving notice of application for leave to appeal, or for applying for leave to appeal, must be ignored.

Commencement Information

- I15** Sch. 12 para. 8 not in force at Royal Assent, see 100(1)
I16 Sch. 12 para. 8 in force at 20.12.2023 by S.I. 2023/1272, reg. 2(b)

- 9 (1) **This paragraph** applies to **paragraph 6** material taken from, or provided by, an individual—
- (a) who has been convicted of a recordable offence (other than a single exempt conviction) or of an offence in Scotland which is punishable by imprisonment, or
 - (b) who is so convicted before the end of the period within which the material may be retained by virtue of **paragraph 8**.
- (2) The material may be retained indefinitely.

Changes to legislation: There are currently no known outstanding effects for the National Security Act 2023, Schedule 12. (See end of Document for details)

Commencement Information

I17 Sch. 12 para. 9 not in force at Royal Assent, see 100(1)

I18 Sch. 12 para. 9 in force at 20.12.2023 by S.I. 2023/1272, reg. 2(b)

- 10 (1) For the purposes of paragraphs 8 and 9 an individual is to be treated as having been convicted of an offence if—
- (a) in relation to a recordable offence in England and Wales or Northern Ireland—
 - (i) the individual has been given a caution or youth caution in respect of the offence which, at the time of the caution, the individual has admitted,
 - (ii) the individual has been found not guilty of the offence by reason of insanity, or
 - (iii) the individual has been found to be under a disability and to have done the act charged in respect of the offence,
 - (b) the individual, in relation to an offence in Scotland punishable by imprisonment, has accepted or has been deemed to accept—
 - (i) a conditional offer under section 302 of the Criminal Procedure (Scotland) Act 1995,
 - (ii) a compensation offer under section 302A of that Act,
 - (iii) a combined offer under section 302B of that Act, or
 - (iv) a work offer under section 303ZA of that Act,
 - (c) the individual, in relation to an offence in Scotland punishable by imprisonment, has been acquitted on account of the individual's insanity at the time of the offence or (as the case may be) by virtue of section 51A of the Criminal Procedure (Scotland) Act 1995,
 - (d) a finding in respect of the individual has been made under section 55(2) of the Criminal Procedure (Scotland) Act 1995 in relation to an offence in Scotland punishable by imprisonment,
 - (e) the individual, having been given a fixed penalty notice under section 129(1) of the [Antisocial Behaviour etc. \(Scotland\) Act 2004 \(asp 8\)](#) in connection with an offence in Scotland punishable by imprisonment, has paid—
 - (i) the fixed penalty, or
 - (ii) (as the case may be) the sum which the individual is liable to pay by virtue of section 131(5) of that Act, or
 - (f) the individual, in relation to an offence in Scotland punishable by imprisonment, has been discharged absolutely by order under section 246(3) of the Criminal Procedure (Scotland) Act 1995.
- (2) Paragraphs 8, 9 and [this paragraph](#), so far as they relate to individuals convicted of an offence, have effect despite anything in the Rehabilitation of Offenders Act 1974 or the Rehabilitation of Offenders (Northern Ireland) Order 1978 ([S.I. 1978/1908 \(N.I. 27\)](#)).
- (3) But a person is not to be treated as having been convicted of an offence if that conviction is a disregarded conviction or caution by virtue of section 92 or 101A of the Protection of Freedoms Act 2012.
- (4) For the purposes of paragraphs 8 and 9—

Changes to legislation: There are currently no known outstanding effects for the National Security Act 2023, Schedule 12. (See end of Document for details)

- (a) an individual has no previous convictions if the individual has not previously been convicted—
 - (i) in England and Wales or Northern Ireland of a recordable offence, or
 - (ii) in Scotland of an offence which is punishable by imprisonment, and
 - (b) if the individual has previously been convicted of a recordable offence in England and Wales or Northern Ireland, the conviction is exempt if it is in respect of a recordable offence, other than a qualifying offence, committed when the individual was aged under 18.
- (5) In sub-paragraph (4) “qualifying offence”—
- (a) in relation to a conviction in respect of a recordable offence committed in England and Wales, has the meaning given by section 65A of the Police and Criminal Evidence Act 1984, and
 - (b) in relation to a conviction in respect of a recordable offence committed in Northern Ireland, has the meaning given by Article 53A of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12)).
- (6) For the purposes of sub-paragraph (4)—
- (a) a person is to be treated as having previously been convicted in England and Wales of a recordable offence if—
 - (i) the person has previously been convicted of an offence under the law of a country or territory outside the United Kingdom, and
 - (ii) the act constituting the offence would constitute a recordable offence under the law of England and Wales if done there (whether or not it constituted such an offence when the person was convicted);
 - (b) a person is to be treated as having previously been convicted in Northern Ireland of a recordable offence if—
 - (i) the person has previously been convicted of an offence under the law of a country or territory outside the United Kingdom, and
 - (ii) the act constituting the offence would constitute a recordable offence under the law of Northern Ireland if done there (whether or not it constituted such an offence when the person was convicted);
 - (c) a person is to be treated as having previously been convicted in Scotland of an offence which is punishable by imprisonment if—
 - (i) the person has previously been convicted of an offence under the law of a country or territory outside the United Kingdom, and
 - (ii) the act constituting the offence would constitute an offence punishable by imprisonment under the law of Scotland if done there (whether or not it constituted such an offence when the person was convicted);
 - (d) the reference in sub-paragraph (4)(b) to a qualifying offence includes a reference to an offence under the law of a country or territory outside the United Kingdom where the act constituting the offence would constitute a qualifying offence under the law of England and Wales if done there or (as the case may be) under the law of Northern Ireland if done there (whether or not it constituted such an offence when the person was convicted).
- (7) For the purposes of paragraph 8, 9 or this paragraph—
- (a) “offence”, in relation to any country or territory outside the United Kingdom, includes an act punishable under the law of that country or territory, however it is described;

Changes to legislation: There are currently no known outstanding effects for the National Security Act 2023, Schedule 12. (See end of Document for details)

- (b) a person has in particular been convicted of an offence under the law of a country or territory outside the United Kingdom if—
 - (i) a court exercising jurisdiction under the law of that country or territory has made in respect of such an offence a finding equivalent to a finding that the person is not guilty by reason of insanity, or
 - (ii) such a court has made in respect of such an offence a finding equivalent to a finding that the person is under a disability and did the act charged against the person in respect of the offence.
- (8) If an individual is convicted of more than one offence arising out of a single course of action, those convictions are to be treated as a single conviction for the purposes of calculating under paragraph 8 or 9 whether the individual has been convicted of one offence.

Commencement Information

I19 Sch. 12 para. 10 not in force at Royal Assent, see 100(1)

I20 Sch. 12 para. 10 in force at 20.12.2023 by S.I. 2023/1272, reg. 2(b)

- 11
- (1) Paragraph 6 material may be retained for as long as a national security determination made by a chief officer of police has effect in relation to it.
 - (2) A national security determination is made if a chief officer of police determines that it is necessary for any paragraph 6 material to be retained for the purposes of national security.
 - (3) A national security determination—
 - (a) must be in writing,
 - (b) has effect for a maximum of 5 years beginning with the date on which the determination is made, and
 - (c) may be renewed.
 - (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,
 - (c) the Chief Constable of the Police Service of Northern Ireland,
 - (d) the Chief Constable of the Ministry of Defence Police,
 - (e) the Chief Constable of the British Transport Police Force, or
 - (f) the Director General of the National Crime Agency.

Commencement Information

I21 Sch. 12 para. 11 not in force at Royal Assent, see 100(1)

I22 Sch. 12 para. 11 in force at 20.12.2023 by S.I. 2023/1272, reg. 2(b)

- 12
- (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.

Changes to legislation: There are currently no known outstanding effects for the National Security Act 2023, Schedule 12. (See end of Document for details)

- (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 \(N.I. 12\)](#)),
 - (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,
 - (v) paragraph 34 of Schedule 3 to the Counter-Terrorism and Border Security Act 2019, or
 - (vi) paragraph 10 of [Schedule 6](#), 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](#) references to a part of the United Kingdom are references to—
- (a) England and Wales,
 - (b) Scotland, or
 - (c) Northern Ireland.

Commencement Information

I23 Sch. 12 para. 12 not in force at Royal Assent, see 100(1)

I24 Sch. 12 para. 12 in force at 20.12.2023 by [S.I. 2023/1272](#), [reg. 2\(b\)](#)

Commencement Information

I15 Sch. 12 para. 8 not in force at Royal Assent, see 100(1)

I16 Sch. 12 para. 8 in force at 20.12.2023 by [S.I. 2023/1272](#), [reg. 2\(b\)](#)

I17 Sch. 12 para. 9 not in force at Royal Assent, see 100(1)

I18 Sch. 12 para. 9 in force at 20.12.2023 by [S.I. 2023/1272](#), [reg. 2\(b\)](#)

Changes to legislation: There are currently no known outstanding effects for the National Security Act 2023, Schedule 12. (See end of Document for details)

- I19** Sch. 12 para. 10 not in force at Royal Assent, see 100(1)
- I20** Sch. 12 para. 10 in force at 20.12.2023 by S.I. 2023/1272, reg. 2(b)
- I21** Sch. 12 para. 11 not in force at Royal Assent, see 100(1)
- I22** Sch. 12 para. 11 in force at 20.12.2023 by S.I. 2023/1272, reg. 2(b)
- I23** Sch. 12 para. 12 not in force at Royal Assent, see 100(1)
- I24** Sch. 12 para. 12 in force at 20.12.2023 by S.I. 2023/1272, reg. 2(b)

Requirement to destroy samples

- 13 (1) This paragraph applies to—
- (a) non-intimate samples taken under paragraph 1, or
 - (b) samples taken under paragraph 4(2)(b) or (c).
- (2) Samples to which this paragraph applies must be destroyed if it appears to the responsible chief officer of police that the taking of the sample was unlawful.
- (3) Subject to this, the rule in sub-paragraph (4) or (as the case may be) (5) applies.
- (4) A DNA sample to which this paragraph applies must be destroyed—
- (a) as soon as a DNA profile has been derived from the sample, or
 - (b) if sooner, before the end of the period of 6 months beginning with the date on which the sample was taken.
- (5) Any other sample to which this paragraph applies must be destroyed before the end of the period of 6 months beginning with the date on which it was taken.
- (6) Nothing in this paragraph prevents a relevant search, in relation to samples to which this paragraph applies, from being carried out within such time as may reasonably be required for the search if the responsible chief officer of police considers the search to be desirable.

Commencement Information

- I25** Sch. 12 para. 13 not in force at Royal Assent, see 100(1)
- I26** Sch. 12 para. 13 in force at 20.12.2023 by S.I. 2023/1272, reg. 2(b)

Use of retained material

- 14 (1) Any material to which paragraph 6 or 13 applies must not be used other than—
- (a) in the interests of national security,
 - (b) for the purposes of investigating foreign power threat activity,
 - (c) for the purposes of a terrorist investigation (within the meaning of the Terrorism Act 2000),
 - (d) for purposes related to the prevention or detection of crime, the investigation of an offence or the conduct of a prosecution, or
 - (e) for purposes related to the identification of a deceased person or of the person to whom the material relates.
- (2) Material which is required by paragraph 6 or 13 to be destroyed must not at any time after it is required to be destroyed be used—
- (a) in evidence against the individual to whom the material relates, or
 - (b) for the purposes of the investigation of any offence.

Changes to legislation: There are currently no known outstanding effects for the National Security Act 2023, Schedule 12. (See end of Document for details)

- (3) In [this paragraph](#)—
- (a) the reference to using material includes a reference to allowing any check to be made against it and to disclosing it to any person,
 - (b) the reference to crime includes a reference to any conduct which—
 - (i) constitutes one or more criminal offences (whether under the law of a part of the United Kingdom or of a country or territory outside the United Kingdom), or
 - (ii) is, or corresponds to, any conduct which, if it all took place in any one part of the United Kingdom, would constitute one or more criminal offences, and
 - (c) the references to an investigation and to a prosecution include references, respectively, to any investigation outside the United Kingdom of any crime or suspected crime and to a prosecution brought in respect of any crime in a country or territory outside the United Kingdom.

Commencement Information

I27 Sch. 12 para. 14 not in force at Royal Assent, see 100(1)

I28 Sch. 12 para. 14 in force at 20.12.2023 by S.I. 2023/1272, [reg. 2\(b\)](#)

Interpretation

- 15 (1) In [this Schedule](#)—
- “DNA profile” means any information derived from a DNA sample;
 - “DNA sample” means any material that has come from a human body and consists of or includes human cells;
 - “fingerprints” has the meaning given by section 65(1) of the Police and Criminal Evidence Act 1984 or, in Northern Ireland, Article 53(1) of the Police and Criminal Evidence (Northern Ireland) Order 1989 ([S.I. 1989/1341 \(N.I.12\)](#));
 - “non-intimate sample” has the meaning given by section 65(1) of the Police and Criminal Evidence Act 1984 or, in Northern Ireland, Article 53(1) of the Police and Criminal Evidence (Northern Ireland) Order 1989 ([S.I. 1989/1341 \(N.I.12\)](#));
 - “paragraph 6 material” has the meaning given by [paragraph 6\(2\)](#);
 - “police force” means any of the following—
 - (a) the metropolitan police force;
 - (b) a police force maintained under [section 2](#) of the Police Act 1996 (police forces in England and Wales outside London);
 - (c) the City of London police force;
 - (d) the Police Service of Scotland;
 - (e) the Police Service of Northern Ireland;
 - (f) the Police Service of Northern Ireland Reserve;
 - (g) the Ministry of Defence Police;
 - (h) the National Crime Agency;
 - (i) the British Transport Police Force;
 - “recordable offence” has—

Changes to legislation: There are currently no known outstanding effects for the National Security Act 2023, Schedule 12. (See end of Document for details)

- (a) in relation to a conviction in England and Wales, the meaning given by section 118(1) of the Police and Criminal Evidence Act 1984, and
- (b) in relation to a conviction in Northern Ireland, the meaning given by Article 2(2) of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12));

“relevant physical data” has the meaning given by section 18(7A) of the Criminal Procedure (Scotland) Act 1995;

“relevant search” means a search carried out for the purpose of checking any fingerprints, samples, data or information against any of the fingerprints, samples, data or information mentioned in [paragraph 5\(a\)](#) to (k);

“responsible chief officer of police” means—

- (a) in relation to fingerprints or samples taken by a constable of the Ministry of Defence Police, or a DNA profile derived from a sample so taken, the Chief Constable of the Ministry of Defence Police;
- (b) in relation to fingerprints or samples taken by a constable of the British Transport Police Force, or a DNA profile derived from a sample so taken, the Chief Constable of the British Transport Police Force;
- (c) in relation to fingerprints or samples taken by a constable who is a National Crime Agency officer, or a DNA profile derived from a sample so taken, the Director General of the National Crime Agency;
- (d) otherwise—
 - (i) in relation to fingerprints or samples taken in England or Wales, or a DNA profile derived from a sample so taken, the chief officer of police for the relevant police area;
 - (ii) in relation to relevant physical data or samples taken or provided in Scotland, or a DNA profile derived from a sample so taken, the chief constable of the Police Service of Scotland;
 - (iii) in relation to fingerprints or samples taken in Northern Ireland, or a DNA profile derived from a sample so taken, the Chief Constable of the Police Service of Northern Ireland;

“sufficient” and “insufficient”, in relation to a sample, have the same meaning as in Part 5 of the Police and Criminal Evidence Act 1984 (see section 65(1) and (2) of that Act) or, in Northern Ireland, Part 6 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I.12)) (see Article 53(1) and (3) of that Order).

- (2) In the definition of “responsible chief officer of police” in [sub-paragraph \(1\)](#), in paragraph (d)(i), “relevant police area” means the police area—
 - (a) in which the material concerned was taken, or
 - (b) in the case of a DNA profile, in which the sample from which the DNA profile was derived was taken.

Commencement Information

I29 Sch. 12 para. 15 not in force at Royal Assent, see 100(1)

I30 Sch. 12 para. 15 in force at 20.12.2023 by S.I. 2023/1272, [reg. 2\(b\)](#)

Changes to legislation:

There are currently no known outstanding effects for the National Security Act 2023, Schedule 12.