

Changes to legislation: There are currently no known outstanding effects for the National Security Act 2023, Schedule 18. (See end of Document for details)

SCHEDULES

SCHEDULE 18

Section 94

MINOR AND CONSEQUENTIAL AMENDMENTS

Official Secrets Act 1911 (c. 28)

1 The Official Secrets Act 1911 is repealed.

Commencement Information

- I1** Sch. 18 para. 1 not in force at Royal Assent, see 100(1)
- I2** Sch. 18 para. 1 in force at 20.12.2023 by S.I. 2023/1272, **reg. 2(f)** (with **reg. 3**)

Official Secrets Act 1920 (c. 75)

2 The Official Secrets Act 1920 is repealed.

Commencement Information

- I3** Sch. 18 para. 2 not in force at Royal Assent, see 100(1)
- I4** Sch. 18 para. 2 in force at 20.12.2023 by S.I. 2023/1272, **reg. 2(f)**

Official Secrets Act 1939 (c. 121)

3 The Official Secrets Act 1939 is repealed.

Commencement Information

- I5** Sch. 18 para. 3 not in force at Royal Assent, see 100(1)
- I6** Sch. 18 para. 3 in force at 20.12.2023 by S.I. 2023/1272, **reg. 2(f)**

Police and Criminal Evidence Act 1984 (c. 60)

- 4 (1) The Police and Criminal Evidence Act 1984 is amended as follows.
- (2) In section 56 (right to have someone informed when arrested), in subsection (10), after “the terrorism provisions” insert “or under [section 27](#) of the National Security Act 2023,”.
 - (3) In section 58 (right to consult a solicitor), in subsection (12), after “the terrorism provisions” insert “or under [section 27](#) of the National Security Act 2023,”.
 - (4) In section 61 (fingerprinting), in subsection (9)(b), after “the terrorism provisions” insert “or under [section 27](#) of the National Security Act 2023,”.

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- (5) In section 63F (retention of fingerprints and DNA profiles for persons arrested for or charged with a qualifying offence)—
- (a) in subsections (5)(a) and (5A)(a), after “terrorism-related qualifying offence” insert “or a national security-related qualifying offence”;
 - (b) in subsection (11), in the appropriate place insert—
 - “national security-related qualifying offence” means—
 - (a) an offence under [section 18](#) of the National Security Act 2023 or for the time being listed in [section 33\(3\)\(a\)](#) of that Act, or
 - (b) an ancillary offence, as defined in [section 65A\(5\)](#), relating to an offence for the time being listed in [section 33\(3\)\(a\)](#) of that Act.”
- (6) In section 63U (exclusions for certain regimes), after subsection (4A) insert—
- “(4B) Sections 63D to 63T do not apply to material to which—
- (a) Part 4 of [Schedule 6](#) to the National Security Act 2023 applies, or
 - (b) paragraph 6 of [Schedule 12](#) to that Act applies.”
- (7) In section 65A(2) (meaning of “qualifying offence”), after paragraph (u) insert—
- “(v) an offence under [section 18](#) of the National Security Act 2023 or for the time being listed in [section 33\(3\)\(a\)](#) of that Act.”

Commencement Information

- 17** Sch. 18 para. 4 not in force at Royal Assent, see 100(1)
18 Sch. 18 para. 4 in force at 20.12.2023 by S.I. 2023/1272, reg. 2(f)

Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12))

- 5 (1) The Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12)) is amended as follows.
- (2) In Article 53A (meaning of “qualifying offence”), after paragraph (2)(v) insert—
- “(w) an offence under [section 18](#) of the National Security Act 2023 or for the time being listed in [section 33\(3\)\(a\)](#) of that Act.”
- (3) In Article 57 (right to have someone informed when arrested), in paragraph (10), after “the terrorism provisions” insert “or under [section 27](#) of the National Security Act 2023,”.
- (4) In Article 59 (right to consult a solicitor), in paragraph (12), after “the terrorism provisions” insert “or under [section 27](#) of the National Security Act 2023,”.
- (5) In Article 61 (fingerprinting), in paragraph (9)(b), after “the terrorism provisions” insert “or under [section 27](#) of the National Security Act 2023,”.
- (6) In Article 62 (intimate samples), after paragraph (12) insert—
- “(12A) Nothing in this Article applies to a person arrested or detained under [section 27](#) of the National Security Act 2023; and paragraph (1A) does not apply where the non-intimate samples mentioned in that paragraph were taken under paragraph 10 of [Schedule 6](#) to that Act.”

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- (7) In Article 63 (other samples), in paragraph (11), after “the terrorism provisions” insert “or under [section 27](#) of the National Security Act 2023.”
- (8) In Article 63R (as inserted by Schedule 2 to the [Criminal Justice Act \(Northern Ireland\) 2013 \(c. 7 \(N.I.\)\)](#), after paragraph (4A) (as inserted by Schedule 4 to the Counter-Terrorism and Border Security Act 2019) insert—
- “(4B) Articles 63B to 63Q do not apply to material to which—
- (a) Part 4 of [Schedule 6](#) to the National Security Act 2023 applies, or
- (b) paragraph 6 of [Schedule 12](#) to that Act applies.”
- (9) In Article 64 (destruction of fingerprints and samples), in paragraph (8)(b), after “the terrorism provisions” insert “or under [section 27](#) of the National Security Act 2023”.

Commencement Information

I9 Sch. 18 para. 5 not in force at Royal Assent, see 100(1)

I10 Sch. 18 para. 5 in force at 20.12.2023 by [S.I. 2023/1272](#), [reg. 2\(f\)](#)

Official Secrets Act 1989 (c. 6)

- 6 (1) The Official Secrets Act 1989 is amended as follows.
- (2) In section 5(6) (offence of disclosing information obtained by espionage) for “section 1 of the Official Secrets Act 1911” substitute “any of sections 1 to 4 of the National Security Act 2023”.
- (3) In section 11 (arrest, search and trial)—
- (a) for subsections (3) and (3A) substitute—
- “(3) [Schedule 2](#) to the National Security Act 2023 (powers of entry, search and seizure) applies in relation to a relevant offence as it applies in relation to a relevant act (within the meaning given by paragraphs 1 and 18 of that Schedule).”;
- (b) for subsection (4) substitute—
- “(4) If it is necessary in the interests of national security, a court may exclude the public from any part of proceedings for a relevant offence, except the passing of sentence.”;
- (c) after subsection (4) insert—
- “(4A) In this section a “relevant offence” means an offence under any provision of this Act other than section 8(1), (4) or (5).”

Commencement Information

I11 Sch. 18 para. 6 not in force at Royal Assent, see 100(1)

I12 Sch. 18 para. 6 in force at 20.12.2023 by [S.I. 2023/1272](#), [reg. 2\(f\)](#)

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Criminal Procedure (Scotland) Act 1995 (c. 46)

- 7 (1) Section 19C of the Criminal Procedure (Scotland) Act 1995 (use of samples etc) is amended as follows.
- (2) In subsection (1)(a) and (b), after “2019” insert “or paragraph 18 of [Schedule 6](#) to the National Security Act 2023”.
- (3) In subsection (2)—
- (a) in paragraph (c) omit “or”;
 - (b) after that paragraph insert—
 - “(ca) for the purposes of investigating foreign power threat activity, or”.
- (4) In subsection (6)—
- (a) in paragraph (c) omit “and”;
 - (b) after that paragraph insert—
 - “(ca) “foreign power threat activity” has the meaning given by [section 33](#) of the National Security Act 2023, and”.

Commencement Information

I13 Sch. 18 para. 7 not in force at Royal Assent, see 100(1)

I14 Sch. 18 para. 7 in force at 20.12.2023 by [S.I. 2023/1272](#), [reg. 2\(f\)](#)

Protection of Freedoms Act 2012 (c. 9)

- 8 (1) Section 20 of the Protection of Freedoms Act 2012 (appointment and functions of Commissioner) is amended as follows.
- (2) In subsection (2)(a), after sub-paragraph (iva) insert—
- “(ivb) paragraph 22 of [Schedule 6](#) to the National Security Act 2023,
 - (ivc) paragraph 11 of [Schedule 12](#) to that Act,”.
- (3) In subsection (6), after paragraph (e) insert—
- “(f) the retention and use in accordance with Part 4 of [Schedule 6](#) to the National Security Act 2023 of—
 - (i) any material to which paragraph 19 or 25 of that Schedule applies (fingerprints, relevant physical data, DNA profiles and samples), and
 - (ii) any copies of any material to which paragraph 19 of that Schedule applies (fingerprints, relevant physical data and DNA profiles),
 - (g) the retention and use in accordance with paragraphs 5 to 15 of [Schedule 12](#) to the National Security Act 2023 of—
 - (i) any material to which paragraph 6 or 13 of that Schedule applies (fingerprints, relevant physical data, DNA profiles and samples), and
 - (ii) any copies of any material to which paragraph 6 of that Schedule applies (fingerprints, relevant physical data and DNA profiles).”

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Commencement Information

- I15** Sch. 18 para. 8 not in force at Royal Assent, see 100(1)
I16 Sch. 18 para. 8 in force at 20.12.2023 by S.I. 2023/1272, reg. 2(f)

Modern Slavery Act 2015 (c. 30)

- 9 In Schedule 4 to the Modern Slavery Act 2015 (offences to which defence in section 45 does not apply), after paragraph 36B insert—

“National Security Act 2023

- 36C An offence under any of the following provisions of the National Security Act 2023—
- section 1 (obtaining or disclosing protected information);
 - section 2 (obtaining or disclosing trade secrets);
 - section 3 (assisting a foreign intelligence service);
 - section 4 (entering a prohibited place for a purpose prejudicial to the UK);
 - section 12 (sabotage);
 - section 13 (foreign interference: general);
 - section 17 (obtaining material benefits from a foreign intelligence service);
 - section 18 (preparatory conduct).”

Commencement Information

- I17** Sch. 18 para. 9 not in force at Royal Assent, see 100(1)
I18 Sch. 18 para. 9 in force at 20.12.2023 by S.I. 2023/1272, reg. 2(f)

Investigatory Powers Act 2016 (c. 25)

- 10 (1) Schedule 3 to the Investigatory Powers Act 2016 (exceptions to the exclusion of certain matters from legal proceedings) is amended as follows.
- (2) After paragraph 8 insert—

“Proceedings under Part 2 of the National Security Act 2023

- 8A (1) Section 56(1) does not apply in relation to—
- (a) any proceedings which are relevant proceedings within the meaning of Part 2 of the National Security Act 2023 (see section 62(1) of that Act), or
 - (b) any proceedings arising out of any proceedings within paragraph (a).
- (2) But sub-paragraph (1) does not permit the disclosure of anything to—
- (a) any person, other than the Secretary of State, who is or was a party to the proceedings, or

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- (b) any person who—
 - (i) represents such a person for the purposes of the proceedings, and
 - (ii) does so otherwise than by virtue of an appointment as a special advocate under [Schedule 10](#) to the National Security Act 2023.”
- (3) In paragraph 20(2) (proceedings for certain offences)—
 - (a) after paragraph (h) insert—
 - “(ha) an offence under [section 1](#) or [3](#) of the National Security Act 2023 relating to any information, document or other article which, or an offence under [section 12](#) of that Act relating to any asset which—
 - (i) incorporates, or relates to, the content of any intercepted communication or any secondary data obtained from a communication, or
 - (ii) tends to suggest that any interception-related conduct has or may have occurred or may be going to occur;
 - (hb) an offence under [section 18](#) of the National Security Act 2023 in relation to an offence falling within paragraph (ha);”;
 - (b) in paragraph (i), for “(h)” substitute “(ha)”.

Commencement Information

I19 Sch. 18 para. 10 not in force at Royal Assent, see 100(1)

I20 Sch. 18 para. 10 in force at 20.12.2023 by S.I. 2023/1272, reg. 2(f)

Counter-Terrorism and Border Security Act 2019 (c. 3)

- 11 In paragraph 62 of Schedule 3 to the Counter-Terrorism and Border Security Act 2019 (review of Schedule 3 by Investigatory Powers Commissioner) omit—
 - (a) sub-paragraphs (1) to (5);
 - (b) sub-paragraphs (7) and (8).

Commencement Information

I21 Sch. 18 para. 11 not in force at Royal Assent, see 100(1)

I22 Sch. 18 para. 11 in force at 20.12.2023 by S.I. 2023/1272, reg. 2(f)

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