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*Changes to legislation: There are currently no known outstanding effects for the National Security Act 2023, Part 4. (See end of Document for details)*

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## SCHEDULES

### SCHEDULE 6

#### DETENTION UNDER SECTION 27

#### PART 4

#### DEALING WITH FINGERPRINTS AND SAMPLES ETC: UNITED KINGDOM

##### *Retention of fingerprints and samples etc: general*

- 19 (1) This paragraph applies to—
- (a) fingerprints taken under paragraph 10,
  - (b) a DNA profile derived from a DNA sample taken under paragraph 10 or 12,
  - (c) relevant physical data taken or provided by virtue of paragraph 18, and
  - (d) a DNA profile derived from a DNA sample taken or provided by virtue of paragraph 18.
- (2) Fingerprints, relevant physical data and DNA profiles to which this paragraph applies (“paragraph 19 material”) must be destroyed if it appears to the responsible chief officer of police that—
- (a) the material, or, in the case of a DNA profile, the sample from which the DNA profile was derived, was taken or required to be provided unlawfully, or
  - (b) the material was taken or provided, or, in the case of a DNA profile, was derived from a sample taken, from a person in connection with that person’s arrest under section 27 and the arrest was unlawful or based on mistaken identity.
- (3) In any other case, paragraph 19 material must be destroyed unless it is retained under any power conferred by paragraphs 20 or 22.
- (4) Where the retention of paragraph 19 material ceases to be allowed under paragraph 20 or 22, the material may continue to be retained under any other such power which applies to it.
- (5) Nothing in this paragraph prevents a relevant search, in relation to paragraph 19 material, 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.
- (6) For the purposes of sub-paragraph (5), a “relevant search” is a search carried out for the purpose of checking the material against—
- (a) other fingerprints or samples taken under paragraph 10 or 12, or a DNA profile derived from such samples,

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- (b) other fingerprints and samples taken under [paragraph 1 of Schedule 12](#), or a DNA profile derived from such samples,
- (c) any of the fingerprints, samples and information mentioned in section 63A(1)(a) and (b) of the Police and Criminal Evidence Act 1984,
- (d) any of the fingerprints, samples and 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 of the relevant physical data, samples or information mentioned in section 19C(1) of the Criminal Procedure (Scotland) Act 1995,
- (f) any of the fingerprints, data or samples obtained under or by virtue of paragraphs 10 or 12 of Schedule 8 to the Terrorism Act 2000, or information derived from such samples,
- (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, and
- (j) any of the fingerprints, data or samples obtained under or by virtue of paragraph 34 of Schedule 3 to the Counter-Terrorism and Border Security Act 2019, or information derived from such samples.

#### Commencement Information

- 11** Sch. 6 para. 19 not in force at Royal Assent, see 100(1)
- 12** Sch. 6 para. 19 in force at 20.12.2023 by S.I. 2023/1272, [reg. 2\(a\)](#)

- 20 (1) [This paragraph](#) applies to [paragraph 19](#) material relating to a person who is detained under [section 27](#).
- (2) Paragraph 19 material may be retained indefinitely if—
- (a) the person has previously been convicted—
    - (i) of a recordable offence (other than a single exempt conviction), or
    - (ii) in Scotland, of an offence which is punishable by imprisonment, or
  - (b) the person is so convicted before the end of the period within which the material may be retained by virtue of this paragraph.
- (3) In sub-paragraph (2)—
- (a) the reference to a recordable offence includes an offence under the law of a country or territory outside the United Kingdom where the act constituting the offence would constitute—
    - (i) a recordable offence under the law of England and Wales if done there, or
    - (ii) a recordable offence under the law of Northern Ireland if done there, (and, in the application of sub-paragraph (2) where a person has previously been convicted, this applies whether or not the act constituted such an offence when the person was convicted);
  - (b) the reference to an offence in Scotland which is punishable by imprisonment includes an offence under the law of a country or territory outside the United Kingdom where the act constituting the offence would constitute an

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offence under the law of Scotland which is punishable by imprisonment if done there (and, in the application of sub-paragraph (2) where a person has previously been convicted, this applies whether or not the act constituted such an offence when the person was convicted).

- (4) Paragraph 19 material may be retained until the end of the retention period specified in sub-paragraph (5) if—
  - (a) the person has no previous convictions, or
  - (b) the person has only one exempt conviction.
- (5) The retention period is—
  - (a) in the case of fingerprints or relevant physical data, the period of 3 years beginning with the date on which the fingerprints or relevant physical data were taken or provided, and
  - (b) in the case of a DNA profile, the period of 3 years beginning with the date on which the DNA sample from which the profile was derived was taken (or, if the profile was derived from more than one DNA sample, the date on which the first of those samples was taken).
- (6) The responsible chief officer of police or a specified chief officer of police may apply to a relevant court for an order extending the retention period.
- (7) An application for an order under [sub-paragraph \(6\)](#) must be made within the period of 3 months ending with the last day of the retention period.
- (8) An order under [sub-paragraph \(6\)](#) may extend the retention period by a period which—
  - (a) begins with the date on which the material would otherwise be required to be destroyed under [this paragraph](#), and
  - (b) ends with the end of the period of 2 years beginning with that date.
- (9) The following persons may appeal to the relevant appeal court against an order under [sub-paragraph \(6\)](#) or a refusal to make such an order—
  - (a) the responsible chief officer of police;
  - (b) a specified chief officer of police;
  - (c) the person from whom the material was taken.
- (10) In Scotland—
  - (a) an application for an order under [sub-paragraph \(6\)](#) is to be made by summary application;
  - (b) an appeal against an order under [sub-paragraph \(6\)](#), or a refusal to make such an order, must be made within 21 days of the relevant court’s decision, and the relevant appeal court’s decision on any such appeal is final.
- (11) Nothing in [this paragraph](#) prevents the start of a new retention period in relation to [paragraph 19](#) material if a person is detained again under [section 27](#) when an existing retention period (whether or not extended) is still in force in relation to that material.
- (12) In [this paragraph](#)—

“relevant court” means—

  - (a) in England and Wales, a District Judge (Magistrates’ Courts),
  - (b) in Scotland, the sheriff—

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- (i) in whose sheriffdom the person to whom the material relates resides,
  - (ii) in whose sheriffdom that person is believed by the applicant to be, or
  - (iii) to whose sheriffdom that person is believed by the applicant to be intending to come, and
- (c) in Northern Ireland, a district judge (magistrates' court) in Northern Ireland;
- the "relevant appeal court" means—
- (a) in England and Wales, the Crown Court,
  - (b) in Scotland, the Sheriff Appeal Court, and
  - (c) in Northern Ireland, the County Court;
- a "specified chief officer of police" means—
- (a) in England and Wales—
    - (i) the chief officer of the police force of the area in which the person from whom the material was taken resides, or
    - (ii) a chief officer of police who believes that the person is in, or is intending to come to, the chief officer's police area, and
  - (b) the chief constable of the Police Service of Scotland, where—
    - (i) the person who provided the material, or from whom it was taken, resides in Scotland, or
    - (ii) the chief constable believes that the person is in, or is intending to come to, Scotland, and
  - (c) the Chief Constable of the Police Service of Northern Ireland, where—
    - (i) the person from whom the material was taken resides in Northern Ireland, or
    - (ii) the chief constable believes that the person is in, or is intending to come to, Northern Ireland.

#### Commencement Information

**I3** Sch. 6 para. 20 not in force at Royal Assent, see 100(1)

**I4** Sch. 6 para. 20 in force at 20.12.2023 by S.I. 2023/1272, reg. 2(a)

- 21 (1) For the purposes of [paragraph 20](#), a person 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 person has been given a caution or youth caution in respect of the offence which, at the time of the caution, the person has admitted,
    - (ii) the person has been found not guilty of the offence by reason of insanity, or
    - (iii) the person has been found to be under a disability and to have done the act charged in respect of the offence,
  - (b) the person, 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,

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- (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 person, in relation to an offence in Scotland punishable by imprisonment, has been acquitted on account of the person'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 person 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 person, 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 person is liable to pay by virtue of section 131(5) of that Act, or
  - (f) the person, 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) Paragraph 20 and this paragraph, so far as they relate to persons 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 [paragraph 20](#)—
  - (a) a person has no previous convictions if the person 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 person 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 person was under 18 years of age.
- (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

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- (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 20](#) and 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;
  - (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 a person 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 20](#) whether the person has been convicted of only one offence.

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**Commencement Information**

- I5** Sch. 6 para. 21 not in force at Royal Assent, see 100(1)
- I6** Sch. 6 para. 21 in force at 20.12.2023 by S.I. 2023/1272, reg. 2(a)

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#### Commencement Information

- I1** Sch. 6 para. 19 not in force at Royal Assent, see 100(1)
- I2** [Sch. 6 para. 19](#) in force at 20.12.2023 by [S.I. 2023/1272](#), [reg. 2\(a\)](#)
- I3** Sch. 6 para. 20 not in force at Royal Assent, see 100(1)
- I4** [Sch. 6 para. 20](#) in force at 20.12.2023 by [S.I. 2023/1272](#), [reg. 2\(a\)](#)
- I5** Sch. 6 para. 21 not in force at Royal Assent, see 100(1)
- I6** [Sch. 6 para. 21](#) in force at 20.12.2023 by [S.I. 2023/1272](#), [reg. 2\(a\)](#)

#### *Retention of material covered by a national security determination*

- 22 (1) [Paragraph 19](#) material may be retained for as long as a national security determination made by a chief officer of police has effect in relation to the material.
- (2) A national security determination is made if a chief officer of police determines that it is necessary for any [paragraph 19](#) material to be retained for the purposes of national security.
- (3) A national security determination—
- (a) must be made 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

- I7** Sch. 6 para. 22 not in force at Royal Assent, see 100(1)
- I8** [Sch. 6 para. 22](#) in force at 20.12.2023 by [S.I. 2023/1272](#), [reg. 2\(a\)](#)

#### *Fingerprints and relevant physical data: further provision*

- 23 (1) [This paragraph](#) applies where [paragraph 19](#) 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 19](#) material,
  - (b) are taken or provided under or by virtue of—
    - (i) [paragraph 1](#) or [4](#) of [Schedule 12](#),

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- (ii) Part 5 of the Police and Criminal Evidence Act 1984,
  - (iii) Article 61 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12)),
  - (iv) any provision, power or authority mentioned in section 18G(1) of the Criminal Procedure (Scotland) Act 1995,
  - (v) paragraph 10 of Schedule 8 to the Terrorism Act 2000,
  - (vi) paragraph 1 or 4 of Schedule 6 to the Terrorism Prevention and Investigation Measures Act 2011, or
  - (vii) 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 20](#) or [22](#), 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) Any determination under [this paragraph](#) must be recorded in writing.

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**Commencement Information**

- I9** Sch. 6 para. 23 not in force at Royal Assent, see 100(1)  
**I10** Sch. 6 para. 23 in force at 20.12.2023 by S.I. 2023/1272, [reg. 2\(a\)](#)

- 24 (1) If fingerprints or relevant physical data are required by [paragraph 19](#) to be destroyed, any copies of the fingerprints or relevant physical 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 person to whom the DNA profile relates.

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**Commencement Information**

- I11** Sch. 6 para. 24 not in force at Royal Assent, see 100(1)  
**I12** Sch. 6 para. 24 in force at 20.12.2023 by S.I. 2023/1272, [reg. 2\(a\)](#)

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#### Commencement Information

- I9** Sch. 6 para. 23 not in force at Royal Assent, see 100(1)  
**I10** Sch. 6 para. 23 in force at 20.12.2023 by S.I. 2023/1272, reg. 2(a)  
**I11** Sch. 6 para. 24 not in force at Royal Assent, see 100(1)  
**I12** Sch. 6 para. 24 in force at 20.12.2023 by S.I. 2023/1272, reg. 2(a)

#### *Samples: further provision*

- 25 (1) This paragraph applies to—
- (a) samples taken under paragraph 10 or 12, or
  - (b) samples taken or provided by virtue of paragraph 18.
- (2) Samples to which this paragraph applies must be destroyed if it appears to the responsible chief officer of police that—
- (a) the sample was taken or required to be provided unlawfully, or
  - (b) the sample was taken from, or provided by, a person in connection with that person’s arrest under section 27 and the arrest was unlawful or based on mistaken identity.
- (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) The responsible chief officer of police may apply to a relevant court for an order to retain a sample to which this paragraph applies beyond the date on which the sample would otherwise be required to be destroyed by virtue of sub-paragraph (4) or (5) if—
- (a) the sample was taken from a detained person in connection with the investigation of a qualifying offence, and
  - (b) the responsible chief officer of police considers that the condition in sub-paragraph (7) is met.
- (7) The condition is that, having regard to the nature and complexity of other material that is evidence in relation to the offence, the sample is likely to be needed in any proceedings for the offence for the purposes of—
- (a) disclosure to, or use by, a defendant, or
  - (b) responding to any challenge by a defendant in respect of the admissibility of material that is evidence on which the prosecution proposes to rely.
- (8) An application under sub-paragraph (6) must be made before the date on which the sample would otherwise be required to be destroyed by virtue of sub-paragraph (4) or (5).
- (9) If, on an application made by the responsible chief officer of police under sub-paragraph (6), the relevant court is satisfied that the condition in sub-paragraph (7) is met, it may make an order under this sub-paragraph which—

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- (a) allows the sample to be retained for a period of 12 months beginning with the date on which the sample would otherwise be required to be destroyed by virtue of [sub-paragraph \(4\)](#) or [\(5\)](#), and
  - (b) may be renewed (on one or more occasions) for a further period of not more than 12 months from the end of the period when the order would otherwise cease to have effect.
- (10) An application for an order under [sub-paragraph \(9\)](#) (other than an application for renewal)—
- (a) may be made without notice of the application having been given to the person from whom the sample was taken, and
  - (b) may be heard and determined in private in the absence of that person.
- (11) In Scotland, an application for an order under [sub-paragraph \(9\)](#) (including an application for renewal) is to be made by summary application.
- (12) A sample retained by virtue of an order under [sub-paragraph \(9\)](#) must not be used other than for the purposes of any proceedings for the offence in connection with which the sample was taken.
- (13) A sample must be destroyed if retention of the sample by virtue of an order under [sub-paragraph \(9\)](#) ceases to be allowed.
- (14) 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.
- (15) In [this paragraph](#)—
- “ancillary offence”, in relation to an offence, means any of the following—
    - (a) being art and part in the commission of the offence;
    - (b) inciting a person to commit the offence;
    - (c) attempting or conspiring to commit the offence;
  - “qualifying offence”—
    - (a) in relation to the investigation of an offence committed in England and Wales, has the meaning given by section 65A of the Police and Criminal Evidence Act 1984,
    - (b) in relation to the investigation of an offence committed in Scotland, means a relevant offence, an offence listed in section [33\(3\)\(a\)](#), or an ancillary offence in relation to such an offence, and
    - (c) in relation to the investigation of an 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 \(N.I. 12\)](#));
  - “relevant court” means—
    - (a) in England and Wales, a District Judge (Magistrates’ Courts),
    - (b) in Scotland, the sheriff—
      - (i) in whose sheriffdom the person to whom the sample relates resides,
      - (ii) in whose sheriffdom that person is believed by the responsible chief officer of police to be, or

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- (iii) to whose sheriffdom that person is believed by the responsible chief officer of police to be intending to come, and
  - (c) in Northern Ireland, a district judge (magistrates' court) in Northern Ireland;
- “relevant offence” has the same meaning as in section 19A of the Criminal Procedure (Scotland) Act 1995;
- “relevant search” has the meaning given by [paragraph 19\(6\)](#).

#### Commencement Information

**I13** Sch. 6 para. 25 not in force at Royal Assent, see 100(1)

**I14** Sch. 6 para. 25 in force at 20.12.2023 by [S.I. 2023/1272](#), [reg. 2\(a\)](#)

#### *Restrictions on use of retained material*

- 26 (1) Any material to which [paragraph 19](#) or [25](#) 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) Subject to [sub-paragraph \(1\)](#), a relevant search (within the meaning given by [paragraph 19\(6\)](#)) may be carried out in relation to material to which [paragraph 19](#) or [25](#) applies if the responsible chief officer of police considers the search to be desirable.
- (3) Material which is required by [paragraph 19](#) or [25](#) to be destroyed must not at any time after it is required to be destroyed be used—
- (a) in evidence against the person to whom the material relates, or
  - (b) for the purposes of the investigation of any offence.
- (4) 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.

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- (5) [Sub-paragraphs \(1\), \(2\) and \(4\)](#) do not form part of the law of Scotland (but see instead section 19C of the Criminal Procedure (Scotland) Act 1995 (use of samples etc) (as amended by [Schedule 18](#)).

#### Commencement Information

- I15** Sch. 6 para. 26 not in force at Royal Assent, see 100(1)  
**I16** [Sch. 6 para. 26](#) in force at 20.12.2023 by [S.I. 2023/1272](#), [reg. 2\(a\)](#)

#### *Material disclosable in connection with a criminal investigation*

- 27 (1) [Paragraphs 19 to 26](#) do not apply to material relating to a detained person which is, or may become, disclosable under—
- the Criminal Procedure and Investigations Act 1996, or
  - a code of practice prepared under section 23 of that Act and in operation by virtue of an order under section 25 of that Act.
- (2) A sample that—
- falls within [sub-paragraph \(1\)](#), and
  - but for that sub-paragraph would be required to be destroyed under [paragraph 25](#),
- must not be used other than for the purposes of any proceedings for the offence in connection with which the sample was taken.
- (3) A sample that once fell within [sub-paragraph \(1\)](#) but no longer does, and so becomes a sample to which [paragraph 25](#) applies, must be destroyed immediately if the time specified for its destruction under that paragraph has already passed.

#### Commencement Information

- I17** Sch. 6 para. 27 not in force at Royal Assent, see 100(1)  
**I18** [Sch. 6 para. 27](#) in force at 20.12.2023 by [S.I. 2023/1272](#), [reg. 2\(a\)](#)

#### *Interpretation*

- 28 (1) In [paragraphs 19 to 27](#)—
- “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 \(N.I.12\)](#));
- “paragraph 19 material” has the meaning given by [paragraph 19\(2\)](#);
- “police force” means any of the following—
- the metropolitan police force;
  - a police force maintained under section 2 of the Police Act 1996 (police forces in England and Wales outside London);
  - the City of London police force;

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*Changes to legislation: There are currently no known outstanding effects for the National Security Act 2023, Part 4. (See end of Document for details)*

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- (d) the Police Service of Scotland;
- (e) the Scottish Police Authority;
- (f) the Police Service of Northern Ireland;
- (g) the Police Service of Northern Ireland Reserve;
- (h) the Ministry of Defence Police;
- (i) the National Crime Agency;
- (j) the British Transport Police Force;

“recordable offence”—

- (a) in relation to a conviction in England and Wales, has 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, has 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;

“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.

(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.

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#### **Commencement Information**

**I19** Sch. 6 para. 28 not in force at Royal Assent, see 100(1)

**I20** Sch. 6 para. 28 in force at 20.12.2023 by [S.I. 2023/1272](#), [reg. 2\(a\)](#)

**Changes to legislation:**

There are currently no known outstanding effects for the National Security Act 2023, Part 4.