

*These notes refer to the Criminal Justice Act (Northern Ireland)
2013 (c.7) which received Royal Assent on 25 April 2013*

Criminal Justice Act (Northern Ireland) 2013

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Schedules

Schedule 2: Articles 63B to 63R of the Police and Criminal Evidence (Northern Ireland) Order 1989, as inserted

Article 63P – Destruction of samples

This Article requires DNA samples to be destroyed as soon as a DNA profile has been derived from the sample, and no later than 6 months from the date on which it was taken (Article 63P(2)), with an exception for temporary retention where the sample is likely to be needed in proceedings. Any other sample, for example, dental or skin impressions, must also be destroyed within 6 months of being taken (Article 63P(3)). However, Article 63P(4) to (10) provides that samples may be retained for a longer period than six months where it appears to the Chief Constable that, in relation to a serious offence, retention is necessary to ensure that key evidence (in the form of DNA samples) remains available for disclosure to the defendant or to respond to an evidential challenge by the defendant. In such cases, the decision to extend the permissible retention period would fall to a District Judge (Magistrates' Court) following an *ex parte* application made by the Chief Constable. If approved, the District Judge would authorise retention of the material for 12 months, extendable (on one or more occasions) following a further (*inter partes*) application by the Chief Constable. Any material retained in this way would only be available for use in that case. The time within which material is to be destroyed will be subject to the time required to carry out a search against the material (Article 63P(11)).