



# Criminal Justice and Police Act 2001

## 2001 CHAPTER 16

### PART 3

#### POLICE AND CRIMINAL EVIDENCE AND THE TERRORISM ACT

##### *Fingerprints and samples*

#### **83 Provision for Northern Ireland corresponding to s. 82**

- (1) Article 64 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989 1341 (N.I. 12)) (destruction of fingerprints and samples) shall be amended as follows.
- (2) For paragraphs (1) and (2) (obligation to destroy fingerprints and samples of persons who are not prosecuted or who are cleared) there shall be substituted—
  - “(1A) Where—
    - (a) fingerprints or samples are taken from a person in connection with the investigation of an offence; and
    - (b) paragraph (3) does not require them to be destroyed,the fingerprints or samples may be retained after they have fulfilled the purposes for which they were taken but shall not be used by any person except for purposes related to the prevention or detection of crime, the investigation of an offence or the conduct of a prosecution.
  - (1B) In paragraph (1A)—
    - (a) the reference to using a fingerprint includes a reference to allowing any check to be made against it under Article 63A(1) and to disclosing it to any person;
    - (b) the reference to using a sample includes a reference to allowing any check to be made under Article 63A(1) against it or against information derived from it and to disclosing it or any such information to any person;

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*Changes to legislation: Criminal Justice and Police Act 2001, Section 83 is up to date with all changes known to be in force on or before 31 March 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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- (c) 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
  - (d) 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.”
- (3) In paragraph (3), for “paragraph (3A)” there shall be substituted “ the following provisions of this Article ”.
- (4) For paragraphs (3A) and (3B) (power to retain samples for elimination purposes and restriction on use) there shall be substituted—
- “(3AA) Samples and fingerprints are not required to be destroyed under paragraph (3) if—
- (a) they were taken for the purposes of the investigation of an offence of which a person has been convicted; and
  - (b) a sample or, as the case may be, fingerprint was also taken from the convicted person for the purposes of that investigation.
- (3AB) Subject to paragraph (3AC), where a person is entitled under paragraph (3) to the destruction of any fingerprint or sample taken from him (or would be but for paragraph (3AA)), neither the fingerprint nor the sample, nor any information derived from the sample, shall be used—
- (a) in evidence against the person who is or would be entitled to the destruction of that fingerprint or sample; or
  - (b) for the purposes of the investigation of any offence;
- and paragraph (1B) applies for the purposes of this paragraph as it applies for the purposes of paragraph (1A).
- (3AC) Where a person from whom a fingerprint or sample has been taken consents in writing to its retention—
- (a) that sample need not be destroyed under paragraph (3); and
  - (b) paragraph (3AB) shall not restrict the use that may be made of the fingerprint or sample or, in the case of a sample, of any information derived from it;
- and a consent given for the purposes of this paragraph shall not be capable of being withdrawn.
- (3AD) For the purposes of paragraph (3AC) it shall be immaterial whether the consent is given at, before or after the time when the entitlement to the destruction of the fingerprint or sample arises.”
- (5) In paragraph (8)(a) (saving for power conferred by Immigration Act 1971 (c. 77)), after “1971” there shall be inserted “ or section 20 of the Immigration and Asylum

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Act 1999 (c. 33) (disclosure of police information to the Secretary of State for use for immigration purposes); ”.

- (6) The fingerprints, samples and information the retention and use of which, in accordance with the amended provisions of Article 64 of the Order of 1989, is authorised by this section include—
- (a) fingerprints and samples the destruction of which should have taken place before the commencement of this section, but did not; and
  - (b) information deriving from any such samples or from samples the destruction of which did take place, in accordance with that Article, before the commencement of this section.

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**Changes and effects yet to be applied to :**

- s. 83 repealed by [2013 c. 7 \(N.I.\) Sch. 4 Pt. 3](#)