



Crime and Security Act 2010

2010 CHAPTER 17

Retention, destruction and use of fingerprints and samples etc

14 Material subject to the Police and Criminal Evidence Act 1984

- (1) For section 64 of the Police and Criminal Evidence Act 1984 (destruction of fingerprints and samples) there is substituted—

“64 Retention of samples and fingerprints, etc generally

- (1) This section applies to the following material—
- (a) fingerprints, samples or impressions of footwear—
 - (i) taken from a person under any power conferred by this Part of this Act, or
 - (ii) taken in connection with the investigation of an offence with the consent of the person from whom they were taken, and
 - (b) a DNA profile derived from a DNA sample falling within paragraph (a).
- (2) Material to which this section applies may be retained after it has fulfilled the purpose for which it was taken or derived.
- (3) This section is subject to sections 64ZA to 64ZJ.
- (4) This section and sections 64ZA to 64ZH do not apply to material to which paragraph 14 of Schedule 8 to the Terrorism Act 2000 applies.
- (5) Any reference in those sections to a person being arrested for or charged with an offence does not include a reference to a person—
- (a) being arrested under section 41 of the Terrorism Act 2000, or
 - (b) being charged with an offence following an arrest under that section.
- (6) Nothing in this section, or sections 64ZA to 64ZN, affects any power conferred by—

Status: This is the original version (as it was originally enacted).

- (a) paragraph 18(2) of Schedule 2 to the Immigration Act 1971 (power to take reasonable steps to identify a person detained), or
- (b) section 20 of the Immigration and Asylum Act 1999 (disclosure of police information to the Secretary of State for use for immigration purposes).”

(2) After section 64 of that Act (as substituted by subsection (1) above) there is inserted—

“64ZA Destruction of samples

- (1) A DNA sample to which section 64 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.
- (2) Any other sample to which section 64 applies must be destroyed before the end of the period of 6 months beginning with the date on which it was taken.

64ZB Destruction of data given voluntarily

- (1) This section applies to—
 - (a) fingerprints or impressions of footwear taken in connection with the investigation of an offence with the consent of the person from whom they were taken, and
 - (b) a DNA profile derived from a DNA sample taken in connection with the investigation of an offence with the consent of the person from whom the sample was taken.
- (2) Material to which this section applies must be destroyed as soon as it has fulfilled the purpose for which it was taken or derived, unless it is—
 - (a) material relating to a person who is convicted of the offence,
 - (b) material relating to a person who has previously been convicted of a recordable offence, other than a person who has only one exempt conviction,
 - (c) material in relation to which any of sections 64ZC to 64ZH applies, or
 - (d) material which is not required to be destroyed by virtue of consent given under section 64ZL.
- (3) If material to which this section applies leads to the person to whom the material relates being arrested for or charged with an offence other than the offence under investigation—
 - (a) the material is not required to be destroyed by virtue of this section, and
 - (b) sections 64ZD to 64ZH have effect in relation to the material as if the material was taken (or, in the case of a DNA profile, was derived from material taken) in connection with the investigation of the offence in respect of which the person is arrested or charged.

64ZC Destruction of data relating to a person subject to a control order

- (1) This section applies to material falling within subsection (2) relating to a person who—

- (a) has no previous convictions or only one exempt conviction, and
 - (b) is subject to a control order.
- (2) Material falls within this subsection if it is—
 - (a) fingerprints taken from the person, or
 - (b) a DNA profile derived from a DNA sample taken from the person.
- (3) The material must be destroyed before the end of the period of 2 years beginning with the date on which the person ceases to be subject to a control order.
- (4) This section ceases to have effect in relation to the material if the person is convicted—
 - (a) in England and Wales or Northern Ireland of a recordable offence, or
 - (b) in Scotland of an offence which is punishable by imprisonment, before the material is required to be destroyed by virtue of this section.
- (5) For the purposes of subsection (1)—
 - (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 been previously 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 is aged under 18.
- (6) For the purposes of that subsection—
 - (a) a person is to be treated as having been convicted of an offence if—
 - (i) he has been given a caution in England and Wales or Northern Ireland in respect of the offence which, at the time of the caution, he has admitted, or
 - (ii) he has been warned or reprimanded under section 65 of the Crime and Disorder Act 1998 for the offence, and
 - (b) 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.
- (7) In this section—
 - (a) “recordable offence” has, 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, and
 - (b) “qualifying offence” has, in relation to a conviction in respect of a recordable offence committed in Northern Ireland, the meaning given by Article 53A of that Order.

64ZD Destruction of data relating to persons not convicted

- (1) This section applies to material falling within subsection (2) relating to a person who—

Status: This is the original version (as it was originally enacted).

- (a) has no previous convictions or only one exempt conviction,
 - (b) is arrested for or charged with a recordable offence, and
 - (c) is aged 18 or over at the time of the alleged offence.
- (2) Material falls within this subsection if it is—
- (a) fingerprints or impressions of footwear taken from the person in connection with the investigation of the offence, or
 - (b) a DNA profile derived from a DNA sample so taken.
- (3) The material must be destroyed—
- (a) in the case of fingerprints or impressions of footwear, before the end of the period of 6 years beginning with the date on which the fingerprints or impressions were taken,
 - (b) in the case of a DNA profile, before the end of the period of 6 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).
- (4) But if, before the material is required to be destroyed by virtue of this section, the person is arrested for or charged with a recordable offence the material may be further retained until the end of the period of 6 years beginning with the date of the arrest or charge.
- (5) This section ceases to have effect in relation to the material if the person is convicted of a recordable offence before the material is required to be destroyed by virtue of this section.

64ZE Destruction of data relating to persons under 18 not convicted: recordable offences other than qualifying offences

- (1) This section applies to material falling within subsection (2) relating to a person who—
- (a) has no previous convictions or only one exempt conviction,
 - (b) is arrested for or charged with a recordable offence other than a qualifying offence, and
 - (c) is aged under 18 at the time of the alleged offence.
- (2) Material falls within this subsection if it is—
- (a) fingerprints or impressions of footwear taken from the person in connection with the investigation of the offence, or
 - (b) a DNA profile derived from a DNA sample so taken.
- (3) The material must be destroyed—
- (a) in the case of fingerprints or impressions of footwear, before the end of the period of 3 years beginning with the date on which the fingerprints or impressions were taken,
 - (b) in the case of a DNA profile, before the end of 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).

- (4) But if, before the material is required to be destroyed by virtue of this section, the person is arrested for or charged with a recordable offence—
- (a) where the person is aged 18 or over at the time of the alleged offence, the material may be further retained until the end of the period of 6 years beginning with the date of the arrest or charge,
 - (b) where—
 - (i) the alleged offence is not a qualifying offence, and
 - (ii) the person is aged under 18 at the time of the alleged offence, the material may be further retained until the end of the period of 3 years beginning with the date of the arrest or charge,
 - (c) where—
 - (i) the alleged offence is a qualifying offence, and
 - (ii) the person is aged under 16 at the time of the alleged offence, the material may be further retained until the end of the period of 3 years beginning with the date of the arrest or charge,
 - (d) where—
 - (i) the alleged offence is a qualifying offence, and
 - (ii) the person is aged 16 or 17 at the time of the alleged offence, the material may be further retained until the end of the period of 6 years beginning with the date of the arrest or charge,
 - (e) where—
 - (i) the person is convicted of the offence,
 - (ii) the offence is not a qualifying offence,
 - (iii) the person is aged under 18 at the time of the offence, and
 - (iv) the person has no previous convictions,the material may be further retained until the end of the period of 5 years beginning with the date of the arrest or charge.
- (5) This section ceases to have effect in relation to the material if, before the material is required to be destroyed by virtue of this section, the person—
- (a) is convicted of a recordable offence and is aged 18 or over at the time of the offence,
 - (b) is convicted of a qualifying offence, or
 - (c) having a previous exempt conviction, is convicted of a recordable offence.

64ZF Destruction of data relating to persons under 16 not convicted: qualifying offences

- (1) This section applies to material falling within subsection (2) relating to a person who—
- (a) has no previous convictions or only one exempt conviction,
 - (b) is arrested for or charged with a qualifying offence, and
 - (c) is aged under 16 at the time of the alleged offence.
- (2) Material falls within this subsection if it is—
- (a) fingerprints or impressions of footwear taken from the person in connection with the investigation of the offence, or

Status: This is the original version (as it was originally enacted).

- (b) a DNA profile derived from a DNA sample so taken.
- (3) The material must be destroyed—
- (a) in the case of fingerprints or impressions of footwear, before the end of the period of 3 years beginning with the date on which the fingerprints or impressions were taken,
 - (b) in the case of a DNA profile, before the end of 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).
- (4) But if, before the material is required to be destroyed by virtue of this section, the person is arrested for or charged with a recordable offence—
- (a) where the person is aged 18 or over at the time of the alleged offence, the material may be further retained until the end of the period of 6 years beginning with the date of the arrest or charge,
 - (b) where—
 - (i) the alleged offence is not a qualifying offence, and
 - (ii) the person is aged under 18 at the time of the alleged offence,the material may be further retained until the end of the period of 3 years beginning with the date of the arrest or charge,
 - (c) where—
 - (i) the alleged offence is a qualifying offence, and
 - (ii) the person is aged under 16 at the time of the alleged offence,the material may be further retained until the end of the period of 3 years beginning with the date of the arrest or charge,
 - (d) where—
 - (i) the alleged offence is a qualifying offence, and
 - (ii) the person is aged 16 or 17 at the time of the alleged offence,the material may be further retained until the end of the period of 6 years beginning with the date of the arrest or charge,
 - (e) where—
 - (i) the person is convicted of the offence,
 - (ii) the offence is not a qualifying offence,
 - (iii) the person is aged under 18 at the time of the offence, and
 - (iv) the person has no previous convictions,the material may be further retained until the end of the period of 5 years beginning with the date of the arrest or charge.
- (5) This section ceases to have effect in relation to the material if, before the material is required to be destroyed by virtue of this section, the person—
- (a) is convicted of a recordable offence and is aged 18 or over at the time of the offence,
 - (b) is convicted of a qualifying offence, or
 - (c) having a previous exempt conviction, is convicted of a recordable offence.

64ZG Destruction of data relating to persons aged 16 or 17 not convicted: qualifying offences

- (1) This section applies to material falling within subsection (2) relating to a person who—
 - (a) has no previous convictions or only one exempt conviction,
 - (b) is arrested for or charged with a qualifying offence, and
 - (c) is aged 16 or 17 at the time of the alleged offence.
- (2) Material falls within this subsection if it is—
 - (a) fingerprints or impressions of footwear taken from the person in connection with the investigation of the offence, or
 - (b) a DNA profile derived from a DNA sample so taken.
- (3) The material must be destroyed—
 - (a) in the case of fingerprints or impressions of footwear, before the end of the period of 6 years beginning with the date on which the fingerprints or impressions were taken,
 - (b) in the case of a DNA profile, before the end of the period of 6 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).
- (4) But if, before the material is required to be destroyed by virtue of this section, the person is arrested for or charged with a recordable offence—
 - (a) where the person is aged 18 or over at the time of the alleged offence, the material may be further retained until the end of the period of 6 years beginning with the date of the arrest or charge,
 - (b) where—
 - (i) the alleged offence is not a qualifying offence, and
 - (ii) the person is aged under 18 at the time of the alleged offence,the material may be further retained until the end of the period of 3 years beginning with the date of the arrest or charge,
 - (c) where—
 - (i) the alleged offence is a qualifying offence, and
 - (ii) the person is aged 16 or 17 at the time of the alleged offence,the material may be further retained until the end of the period of 6 years beginning with the date of the arrest or charge,
 - (d) where—
 - (i) the person is convicted of the offence,
 - (ii) the offence is not a qualifying offence,
 - (iii) the person is aged under 18 at the time of the offence, and
 - (iv) the person has no previous convictions,the material may be further retained until the end of the period of 5 years beginning with the date of the arrest or charge.
- (5) This section ceases to have effect in relation to the material if, before the material is required to be destroyed by virtue of this section, the person—

Status: This is the original version (as it was originally enacted).

- (a) is convicted of a recordable offence and is aged 18 or over at the time of the offence,
- (b) is convicted of a qualifying offence, or
- (c) having a previous exempt conviction, is convicted of a recordable offence.

64ZH Destruction of data relating to persons under 18 convicted of a recordable offence other than a qualifying offence

- (1) This section applies to material falling within subsection (2) relating to a person who—
 - (a) has no previous convictions,
 - (b) is convicted of a recordable offence other than a qualifying offence, and
 - (c) is aged under 18 at the time of the offence.
- (2) Material falls within this subsection if it is—
 - (a) fingerprints or impressions of footwear taken from the person in connection with the investigation of the offence, or
 - (b) a DNA profile derived from a DNA sample so taken.
- (3) The material must be destroyed—
 - (a) in the case of fingerprints or impressions of footwear, before the end of the period of 5 years beginning with the date on which the fingerprints or impressions were taken,
 - (b) in the case of a DNA profile, before the end of the period of 5 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).
- (4) But if, before the material is required to be destroyed by virtue of this section, the person is arrested for or charged with a recordable offence—
 - (a) where the person is aged 18 or over at the time of the alleged offence, the material may be further retained until the end of the period of 6 years beginning with the date of the arrest or charge,
 - (b) where—
 - (i) the alleged offence is not a qualifying offence, and
 - (ii) the person is aged under 18 at the time of the alleged offence,
 the material may be further retained until the end of the period of 3 years beginning with the date of the arrest or charge,
 - (c) where—
 - (i) the alleged offence is a qualifying offence, and
 - (ii) the person is aged under 16 at the time of the alleged offence,
 the material may be further retained until the end of the period of 3 years beginning with the date of the arrest or charge,
 - (d) where—
 - (i) the alleged offence is a qualifying offence, and
 - (ii) the person is aged 16 or 17 at the time of the alleged offence,

the material may be further retained until the end of the period of 6 years beginning with the date of the arrest or charge.

- (5) This section ceases to have effect in relation to the material if the person is convicted of a further recordable offence before the material is required to be destroyed by virtue of this section.

64ZI Sections 64ZB to 64ZH: supplementary provision

- (1) Any reference in section 64ZB or sections 64ZD to 64ZH to a person being charged with an offence includes a reference to a person being informed that he will be reported for an offence.
- (2) For the purposes of those sections—
- (a) a person has no previous convictions if the person has not previously been convicted of a recordable offence, and
 - (b) if the person has been previously convicted of a recordable offence, the conviction is exempt if it is in respect of a recordable offence other than a qualifying offence, committed when the person is aged under 18.
- (3) For the purposes of those sections, a person is to be treated as having been convicted of an offence if—
- (a) he has been given a caution in respect of the offence which, at the time of the caution, he has admitted, or
 - (b) he has been warned or reprimanded under section 65 of the Crime and Disorder Act 1998 for the offence.
- (4) 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 purpose of any provision of those sections relating to an exempt, first or subsequent conviction.
- (5) Subject to the completion of any speculative search that the responsible chief officer of police considers necessary or desirable, material falling within any of sections 64ZD to 64ZH must be destroyed immediately if it appears to the chief officer that—
- (a) the arrest was unlawful,
 - (b) the taking of the fingerprints, impressions of footwear or DNA sample concerned was unlawful,
 - (c) the arrest was based on mistaken identity, or
 - (d) other circumstances relating to the arrest or the alleged offence mean that it is appropriate to destroy the material.
- (6) “Responsible chief officer of police” means the chief officer of police for the police area—
- (a) in which the samples, fingerprints or impressions of footwear were taken, or
 - (b) in the case of a DNA profile, in which the sample from which the DNA profile was derived was taken.

64ZJ Destruction of fingerprints taken under section 61(6A)

Fingerprints taken from a person by virtue of section 61(6A) (taking fingerprints for the purposes of identification) must be destroyed as soon as they have fulfilled the purpose for which they were taken.

64ZK Retention for purposes of national security

- (1) Subsection (2) applies if the responsible chief officer of police determines that it is necessary for—
 - (a) a DNA profile to which section 64 applies, or
 - (b) fingerprints to which section 64 applies, other than fingerprints taken under section 61(6A),to be retained for the purposes of national security.
- (2) Where this subsection applies—
 - (a) the material is not required to be destroyed in accordance with sections 64ZB to 64ZH, and
 - (b) section 64ZN(2) does not apply to the material,for as long as the determination has effect.
- (3) A determination under subsection (1) has effect for a maximum of 2 years beginning with the date on which the material would otherwise be required to be destroyed, but a determination may be renewed.
- (4) “Responsible chief officer of police” means the chief officer of police for the police area—
 - (a) in which the fingerprints were taken, or
 - (b) in the case of a DNA profile, in which the sample from which the DNA profile was derived was taken.

64ZL Retention with consent

- (1) If a person consents in writing to the retention of fingerprints, impressions of footwear or a DNA profile to which section 64 applies, other than fingerprints taken under section 61(6A)—
 - (a) the material is not required to be destroyed in accordance with sections 64ZB to 64ZH, and
 - (b) section 64ZN(2) does not apply to the material.
- (2) It is immaterial for the purposes of subsection (1) whether the consent is given at, before or after the time when the entitlement to the destruction of the material arises.
- (3) Consent given under this section can be withdrawn at any time.

64ZM Destruction of copies, and notification of destruction

- (1) If fingerprints or impressions of footwear are required to be destroyed by virtue of any of sections 64ZB to 64ZJ, any copies of the fingerprints or impressions of footwear must also be destroyed.

- (2) If a DNA profile is required to be destroyed by virtue of any of those sections, no copy may be kept except in a form which does not include information which identifies the person to whom the DNA profile relates.
- (3) If a person makes a request to the responsible chief officer of police to be notified when anything relating to the person is destroyed under any of sections 64ZA to 64ZJ, the responsible chief officer of police or a person authorised by the chief officer or on the chief officer's behalf must within three months of the request issue the person with a certificate recording the destruction.
- (4) "Responsible chief officer of police" means the chief officer of police for the police area—
 - (a) in which the samples, fingerprints or impressions of footwear which have been destroyed were taken, or
 - (b) in the case of a DNA profile which has been destroyed, in which the samples from which the DNA profile was derived were taken.

64ZN Use of retained material

- (1) Any material to which section 64 applies which is retained after it has fulfilled the purpose for which it was taken or derived must not be used other than—
 - (a) in the interests of national security,
 - (b) for the purposes of a terrorist investigation,
 - (c) for purposes related to the prevention or detection of crime, the investigation of an offence or the conduct of a prosecution, or
 - (d) for purposes related to the identification of a deceased person or of the person to whom the material relates.
- (2) Material which is required to be destroyed by virtue of any of sections 64ZA to 64ZJ, or of section 64ZM, 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.
- (3) In this section—
 - (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."

- (3) In section 65 of that Act, in subsection (1)—
- (a) after the definition of “appropriate consent” there is inserted—
 - ““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;”;
 - (b) after the definition of “terrorism” there is inserted—
 - ““terrorist investigation” has the meaning given by section 32 of the Terrorism Act 2000.”
- (4) In that section, after subsection (2) there is inserted—
- “(2A) In subsection (2), the reference to the destruction of a sample does not include a reference to the destruction of a sample under section 64ZA (requirement to destroy samples).”

15 **Material subject to the Police and Criminal Evidence (Northern Ireland) Order 1989**

- (1) For Article 64 of the Police and Criminal Evidence (Northern Ireland) Order 1989 ([S.I. 1989/1341 \(N.I.12\)](#)) (destruction of fingerprints and samples) there is substituted—

“64 Retention of samples and fingerprints, etc generally

- (1) This Article applies to the following material—
 - (a) fingerprints, samples or impressions of footwear—
 - (i) taken from a person under any power conferred by this Part of this Order, or
 - (ii) taken in connection with the investigation of an offence with the consent of the person from whom they were taken, and
 - (b) a DNA profile derived from a DNA sample falling within paragraph (a).
- (2) Material to which this Article applies may be retained after it has fulfilled the purpose for which it was taken or derived.
- (3) This Article is subject to Articles 64ZA to 64ZJ.
- (4) This Article and Articles 64ZA to 64ZH do not apply to material to which paragraph 14 of Schedule 8 to the Terrorism Act 2000 applies.
- (5) Any reference in those Articles to a person being arrested for or charged with an offence does not include a reference to a person—
 - (a) being arrested under section 41 of the Terrorism Act 2000, or
 - (b) being charged with an offence following an arrest under that section.
- (6) Nothing in this Article, or Articles 64ZA to 64ZN, affects any power conferred by—
 - (a) paragraph 18(2) of Schedule 2 to the Immigration Act 1971 (power to take reasonable steps to identify a person detained), or
 - (b) section 20 of the Immigration and Asylum Act 1999 (disclosure of police information to the Secretary of State for use for immigration purposes).”

- (2) After Article 64 of that Order (as substituted by subsection (1) above) there is inserted—

“64ZA Destruction of samples

- (1) A DNA sample to which Article 64 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.
- (2) Any other sample to which Article 64 applies must be destroyed before the end of the period of 6 months beginning with the date on which it was taken.

64ZB Destruction of data given voluntarily

- (1) This Article applies to—
- (a) fingerprints or impressions of footwear taken in connection with the investigation of an offence with the consent of the person from whom they were taken, and
 - (b) a DNA profile derived from a DNA sample taken in connection with the investigation of an offence with the consent of the person from whom the sample was taken.
- (2) Material to which this Article applies must be destroyed as soon as it has fulfilled the purpose for which it was taken or derived, unless it is—
- (a) material relating to a person who is convicted of the offence,
 - (b) material relating to a person who has previously been convicted of a recordable offence, other than a person who has only one exempt conviction,
 - (c) material in relation to which any of Articles 64ZC to 64ZH applies, or
 - (d) material which is not required to be destroyed by virtue of consent given under Article 64ZL.
- (3) If material to which this Article applies leads to the person to whom the material relates being arrested for or charged with an offence other than the offence under investigation—
- (a) the material is not required to be destroyed by virtue of this Article, and
 - (b) Articles 64ZD to 64ZH have effect in relation to the material as if the material was taken (or, in the case of a DNA profile, was derived from material taken) in connection with the investigation of the offence in respect of which the person is arrested or charged.

64ZC Destruction of data relating to a person subject to a control order

- (1) This Article applies to material falling within paragraph (2) relating to a person who—
- (a) has no previous convictions or only one exempt conviction, and
 - (b) is subject to a control order.
- (2) Material falls within this paragraph if it is—

Status: This is the original version (as it was originally enacted).

- (a) fingerprints taken from the person, or
 - (b) a DNA profile derived from a DNA sample taken from the person.
- (3) The material must be destroyed before the end of the period of 2 years beginning with the date on which the person ceases to be subject to a control order.
- (4) This Article ceases to have effect in relation to the material if the person is convicted—
- (a) in England and Wales or Northern Ireland of a recordable offence, or
 - (b) in Scotland of an offence which is punishable by imprisonment, before the material is required to be destroyed by virtue of this Article.
- (5) For the purposes of paragraph (1)—
- (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 been previously 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 is aged under 18.
- (6) For the purposes of that paragraph—
- (a) a person is to be treated as having been convicted of an offence if—
 - (i) he has been given a caution in England and Wales or Northern Ireland in respect of the offence which, at the time of the caution, he has admitted, or
 - (ii) he has been warned or reprimanded under section 65 of the Crime and Disorder Act 1998 for the offence, and
 - (b) 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.
- (7) In this Article—
- (a) “recordable offence” has, 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) “qualifying offence” has, in relation to a conviction in respect of a recordable offence committed in England and Wales, the meaning given by section 65A of that Act.

64ZD Destruction of data relating to persons not convicted

- (1) This Article applies to material falling within paragraph (2) relating to a person who—
- (a) has no previous convictions or only one exempt conviction,
 - (b) is arrested for or charged with a recordable offence, and
 - (c) is aged 18 or over at the time of the alleged offence.

- (2) Material falls within this paragraph if it is—
 - (a) fingerprints or impressions of footwear taken from the person in connection with the investigation of the offence, or
 - (b) a DNA profile derived from a DNA sample so taken.
- (3) The material must be destroyed—
 - (a) in the case of fingerprints or impressions of footwear, before the end of the period of 6 years beginning with the date on which the fingerprints or impressions were taken,
 - (b) in the case of a DNA profile, before the end of the period of 6 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).
- (4) But if, before the material is required to be destroyed by virtue of this Article, the person is arrested for or charged with a recordable offence the material may be further retained until the end of the period of 6 years beginning with the date of the arrest or charge.
- (5) This Article ceases to have effect in relation to the material if the person is convicted of a recordable offence before the material is required to be destroyed by virtue of this Article.

64ZE Destruction of data relating to persons under 18 not convicted: recordable offences other than qualifying offences

- (1) This Article applies to material falling within paragraph (2) relating to a person who—
 - (a) has no previous convictions or only one exempt conviction,
 - (b) is arrested for or charged with a recordable offence other than a qualifying offence, and
 - (c) is aged under 18 at the time of the alleged offence.
- (2) Material falls within this paragraph if it is—
 - (a) fingerprints or impressions of footwear taken from the person in connection with the investigation of the offence, or
 - (b) a DNA profile derived from a DNA sample so taken.
- (3) The material must be destroyed—
 - (a) in the case of fingerprints or impressions of footwear, before the end of the period of 3 years beginning with the date on which the fingerprints or impressions were taken,
 - (b) in the case of a DNA profile, before the end of 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).
- (4) But if, before the material is required to be destroyed by virtue of this Article, the person is arrested for or charged with a recordable offence—

Status: This is the original version (as it was originally enacted).

- (a) where the person is aged 18 or over at the time of the alleged offence, the material may be further retained until the end of the period of 6 years beginning with the date of the arrest or charge,
 - (b) where—
 - (i) the alleged offence is not a qualifying offence, and
 - (ii) the person is aged under 18 at the time of the alleged offence, the material may be further retained until the end of the period of 3 years beginning with the date of the arrest or charge,
 - (c) where—
 - (i) the alleged offence is a qualifying offence, and
 - (ii) the person is aged under 16 at the time of the alleged offence, the material may be further retained until the end of the period of 3 years beginning with the date of the arrest or charge,
 - (d) where—
 - (i) the alleged offence is a qualifying offence, and
 - (ii) the person is aged 16 or 17 at the time of the alleged offence, the material may be further retained until the end of the period of 6 years beginning with the date of the arrest or charge,
 - (e) where—
 - (i) the person is convicted of the offence,
 - (ii) the offence is not a qualifying offence,
 - (iii) the person is aged under 18 at the time of the offence, and
 - (iv) the person has no previous convictions,
 the material may be further retained until the end of the period of 5 years beginning with the date of the arrest or charge.
- (5) This Article ceases to have effect in relation to the material if, before the material is required to be destroyed by virtue of this Article, the person—
- (a) is convicted of a recordable offence and is aged 18 or over at the time of the offence,
 - (b) is convicted of a qualifying offence, or
 - (c) having a previous exempt conviction, is convicted of a recordable offence.

64ZF Destruction of data relating to persons under 16 not convicted: qualifying offences

- (1) This Article applies to material falling within paragraph (2) relating to a person who—
 - (a) has no previous convictions or only one exempt conviction,
 - (b) is arrested for or charged with a qualifying offence, and
 - (c) is aged under 16 at the time of the alleged offence.
- (2) Material falls within this paragraph if it is—
 - (a) fingerprints or impressions of footwear taken from the person in connection with the investigation of the offence, or
 - (b) a DNA profile derived from a DNA sample so taken.
- (3) The material must be destroyed—

- (a) in the case of fingerprints or impressions of footwear, before the end of the period of 3 years beginning with the date on which the fingerprints or impressions were taken,
 - (b) in the case of a DNA profile, before the end of 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).
- (4) But if, before the material is required to be destroyed by virtue of this Article, the person is arrested for or charged with a recordable offence—
- (a) where the person is aged 18 or over at the time of the alleged offence, the material may be further retained until the end of the period of 6 years beginning with the date of the arrest or charge,
 - (b) where—
 - (i) the alleged offence is not a qualifying offence, and
 - (ii) the person is aged under 18 at the time of the alleged offence,the material may be further retained until the end of the period of 3 years beginning with the date of the arrest or charge,
 - (c) where—
 - (i) the alleged offence is a qualifying offence, and
 - (ii) the person is aged under 16 at the time of the alleged offence,the material may be further retained until the end of the period of 3 years beginning with the date of the arrest or charge,
 - (d) where—
 - (i) the alleged offence is a qualifying offence, and
 - (ii) the person is aged 16 or 17 at the time of the alleged offence,the material may be further retained until the end of the period of 6 years beginning with the date of the arrest or charge,
 - (e) where—
 - (i) the person is convicted of the offence,
 - (ii) the offence is not a qualifying offence,
 - (iii) the person is aged under 18 at the time of the offence, and
 - (iv) the person has no previous convictions,the material may be further retained until the end of the period of 5 years beginning with the date of the arrest or charge.
- (5) This Article ceases to have effect in relation to the material if, before the material is required to be destroyed by virtue of this Article, the person—
- (a) is convicted of a recordable offence and is aged 18 or over at the time of the offence,
 - (b) is convicted of a qualifying offence, or
 - (c) having a previous exempt conviction, is convicted of a recordable offence.

Status: This is the original version (as it was originally enacted).

64ZG Destruction of data relating to persons aged 16 or 17 not convicted: qualifying offences

- (1) This Article applies to material falling within paragraph (2) relating to a person who—
 - (a) has no previous convictions or only one exempt conviction,
 - (b) is arrested for or charged with a qualifying offence, and
 - (c) is aged 16 or 17 at the time of the alleged offence.
- (2) Material falls within this paragraph if it is—
 - (a) fingerprints or impressions of footwear taken from the person in connection with the investigation of the offence, or
 - (b) a DNA profile derived from a DNA sample so taken.
- (3) The material must be destroyed—
 - (a) in the case of fingerprints or impressions of footwear, before the end of the period of 6 years beginning with the date on which the fingerprints or impressions were taken,
 - (b) in the case of a DNA profile, before the end of the period of 6 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).
- (4) But if, before the material is required to be destroyed by virtue of this Article, the person is arrested for or charged with a recordable offence—
 - (a) where the person is aged 18 or over at the time of the alleged offence, the material may be further retained until the end of the period of 6 years beginning with the date of the arrest or charge,
 - (b) where—
 - (i) the alleged offence is not a qualifying offence, and
 - (ii) the person is aged under 18 at the time of the alleged offence,the material may be further retained until the end of the period of 3 years beginning with the date of the arrest or charge,
 - (c) where—
 - (i) the alleged offence is a qualifying offence, and
 - (ii) the person is aged 16 or 17 at the time of the alleged offence,the material may be further retained until the end of the period of 6 years beginning with the date of the arrest or charge,
 - (d) where—
 - (i) the person is convicted of the offence,
 - (ii) the offence is not a qualifying offence,
 - (iii) the person is aged under 18 at the time of the offence, and
 - (iv) the person has no previous convictions,the material may be further retained until the end of the period of 5 years beginning with the date of the arrest or charge.
- (5) This Article ceases to have effect in relation to the material if, before the material is required to be destroyed by virtue of this Article, the person—

- (a) is convicted of a recordable offence and is aged 18 or over at the time of the offence,
- (b) is convicted of a qualifying offence, or
- (c) having a previous exempt conviction, is convicted of a recordable offence.

64ZH Destruction of data relating to persons under 18 convicted of a recordable offence other than a qualifying offence

- (1) This Article applies to material falling within paragraph (2) relating to a person who—
 - (a) has no previous convictions,
 - (b) is convicted of a recordable offence other than a qualifying offence, and
 - (c) is aged under 18 at the time of the offence.
- (2) Material falls within this paragraph if it is—
 - (a) fingerprints or impressions of footwear taken from the person in connection with the investigation of the offence, or
 - (b) a DNA profile derived from a DNA sample so taken.
- (3) The material must be destroyed—
 - (a) in the case of fingerprints or impressions of footwear, before the end of the period of 5 years beginning with the date on which the fingerprints or impressions were taken,
 - (b) in the case of a DNA profile, before the end of the period of 5 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).
- (4) But if, before the material is required to be destroyed by virtue of this Article, the person is arrested for or charged with a recordable offence—
 - (a) where the person is aged 18 or over at the time of the alleged offence, the material may be further retained until the end of the period of 6 years beginning with the date of the arrest or charge,
 - (b) where—
 - (i) the alleged offence is not a qualifying offence, and
 - (ii) the person is aged under 18 at the time of the alleged offence,the material may be further retained until the end of the period of 3 years beginning with the date of the arrest or charge,
 - (c) where—
 - (i) the alleged offence is a qualifying offence, and
 - (ii) the person is aged under 16 at the time of the alleged offence,the material may be further retained until the end of the period of 3 years beginning with the date of the arrest or charge,
 - (d) where—
 - (i) the alleged offence is a qualifying offence, and
 - (ii) the person is aged 16 or 17 at the time of the alleged offence,

Status: This is the original version (as it was originally enacted).

the material may be further retained until the end of the period of 6 years beginning with the date of the arrest or charge.

- (5) This Article ceases to have effect in relation to the material if the person is convicted of a further recordable offence before the material is required to be destroyed by virtue of this Article.

64ZI Articles 64ZB to 64ZH: supplementary provision

- (1) Any reference in Article 64ZB or Articles 64ZD to 64ZH to a person being charged with an offence includes a reference to a person being informed that he will be reported for an offence.
- (2) For the purposes of those Articles—
- (a) a person has no previous convictions if the person has not previously been convicted of a recordable offence, and
 - (b) if the person has been previously convicted of a recordable offence, the conviction is exempt if it is in respect of a recordable offence other than a qualifying offence, committed when the person is aged under 18.
- (3) For the purposes of those Articles, a person is to be treated as having been convicted of an offence if he has been given a caution in respect of the offence which, at the time of the caution, he has admitted.
- (4) 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 purpose of any provision of those Articles relating to an exempt, first or subsequent conviction.
- (5) Subject to the completion of any speculative search that the Chief Constable considers necessary or desirable, material falling within any of Articles 64ZD to 64ZH must be destroyed immediately if it appears to the Chief Constable that—
- (a) the arrest was unlawful,
 - (b) the taking of the fingerprints, impressions of footwear or DNA sample concerned was unlawful,
 - (c) the arrest was based on mistaken identity, or
 - (d) other circumstances relating to the arrest or the alleged offence mean that it is appropriate to destroy the material.

64ZJ Destruction of fingerprints taken under Article 61(6A)

Fingerprints taken from a person by virtue of Article 61(6A) (taking fingerprints for the purposes of identification) must be destroyed as soon as they have fulfilled the purpose for which they were taken.

64ZK Retention for purposes of national security

- (1) Paragraph (2) applies if the Chief Constable determines that it is necessary for—
- (a) a DNA profile to which Article 64 applies, or

- (b) fingerprints to which Article 64 applies, other than fingerprints taken under Article 61(6A),
to be retained for the purposes of national security.
- (2) Where this paragraph applies—
 - (a) the material is not required to be destroyed in accordance with Articles 64ZB to 64ZH, and
 - (b) Article 64ZN(2) does not apply to the material,
for as long as the determination has effect.
- (3) A determination under paragraph (1) has effect for a maximum of 2 years beginning with the date on which the material would otherwise be required to be destroyed, but a determination may be renewed.

64ZL Retention with consent

- (1) If a person consents in writing to the retention of fingerprints, impressions of footwear or a DNA profile to which Article 64 applies, other than fingerprints taken under Article 61(6A)—
 - (a) the material is not required to be destroyed in accordance with Articles 64ZB to 64ZH, and
 - (b) Article 64ZN(2) does not apply to the material.
- (2) It is immaterial for the purposes of paragraph (1) whether the consent is given at, before or after the time when the entitlement to the destruction of the material arises.
- (3) Consent given under this Article can be withdrawn at any time.

64ZM Destruction of copies, and notification of destruction

- (1) If fingerprints or impressions of footwear are required to be destroyed by virtue of any of Articles 64ZB to 64ZJ, any copies of the fingerprints or impressions of footwear must also be destroyed.
- (2) If a DNA profile is required to be destroyed by virtue of any of those Articles, no copy may be kept except in a form which does not include information which identifies the person to whom the DNA profile relates.
- (3) If a person makes a request to the Chief Constable to be notified when anything relating to the person is destroyed under any of Articles 64ZA to 64ZJ, the Chief Constable or a person authorised by the Chief Constable or on the Chief Constable's behalf must within 3 months of the request issue the person with a certificate recording the destruction.

64ZN Use of retained material

- (1) Any material to which Article 64 applies which is retained after it has fulfilled the purpose for which it was taken or derived must not be used other than—
 - (a) in the interests of national security,
 - (b) for the purposes of a terrorist investigation,

Status: This is the original version (as it was originally enacted).

- (c) for purposes related to the prevention or detection of crime, the investigation of an offence or the conduct of a prosecution, or
 - (d) for purposes related to the identification of a deceased person or of the person to whom the material relates.
- (2) Material which is required to be destroyed by virtue of any of Articles 64ZA to 64ZJ, or of Article 64ZM, 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.
- (3) In this Article—
 - (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.”
- (3) In Article 53 of that Order, in paragraph (1)—
 - (a) after the definition of “control order” there is inserted—
 - ““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;”;
 - (b) after the definition of “sufficient” and “insufficient” there is inserted—
 - ““terrorist investigation” has the meaning given by section 32 of the Terrorism Act 2000.”
- (4) In that Article, after paragraph (3) there is inserted—
 - “(3A) In paragraph (3), the reference to the destruction of a sample does not include a reference to the destruction of a sample under Article 64ZA (requirement to destroy samples).”

16 Material subject to the Criminal Procedure (Scotland) Act 1995

- (1) This section applies to the following material—
 - (a) relevant physical data or samples taken under section 18(2), (6) or (6A) of the 1995 Act (prints, samples etc. in criminal investigations), and
 - (b) a DNA profile derived from a DNA sample falling within paragraph (a).
- (2) Material retained under this section must not be used other than—
 - (a) in the interests of national security, or
 - (b) for the purposes of a terrorist investigation.

- (3) Material to which this section applies may be retained—
 - (a) if the chief constable determines that it is necessary for the material to be retained for the purposes of national security, and
 - (b) for as long as the determination has effect.
- (4) A determination mentioned in subsection (3)—
 - (a) has effect for a maximum of 2 years beginning with the date on which the material would (but for this section) first become liable for destruction under the 1995 Act,
 - (b) may be renewed.
- (5) The reference in subsection (3) to the chief constable is a reference to the chief constable of the police force—
 - (a) of which the constable who took (or directed the taking of) the material was a member, or
 - (b) in the case of a DNA profile, of which the constable who took (or directed the taking of) the sample from which the profile was derived was a member.
- (6) Subsection (3) has effect despite any provision to the contrary in the 1995 Act.
- (7) The reference in subsection (2) to using material includes a reference to allowing any check to be made against it and to disclosing it to any person.
- (8) In this section—
 - “the 1995 Act” is the Criminal Procedure (Scotland) Act 1995,
 - “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,
 - “terrorist investigation” has the meaning given by section 32 of the Terrorism Act 2000.

17 Material subject to the Terrorism Act 2000

- (1) Schedule 8 to the Terrorism Act 2000 (treatment of persons detained under section 41 or Schedule 7 of that Act) is amended as follows.
- (2) For paragraph 14 there is substituted—
 - “14 (1) This paragraph applies to—
 - (a) fingerprints or samples taken under paragraph 10 or 12, and
 - (b) a DNA profile derived from a DNA sample so taken.
 - (2) Material to which this paragraph applies may be retained after it has fulfilled the purpose for which it was taken or derived.
 - (3) This paragraph is subject to paragraphs 14A to 14E.
- 14A (1) A DNA sample to which paragraph 14 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.

Status: This is the original version (as it was originally enacted).

- (2) Any other sample to which paragraph 14 applies must be destroyed before the end of the period of 6 months beginning with the date on which it was taken.
- 14B (1) This paragraph applies to material falling within sub-paragraph (2) relating to a person who—
- (a) has no previous convictions or only one exempt conviction,
 - (b) is detained under Schedule 7 or section 41, and
 - (c) is aged 18 or over on the date he is detained.
- (2) Material falls within this sub-paragraph if it is—
- (a) fingerprints taken from the person under paragraph 10, or
 - (b) a DNA profile derived from a DNA sample taken from the person under paragraph 10 or 12.
- (3) The material must be destroyed—
- (a) in the case of fingerprints, before the end of the period of 6 years beginning with the date on which the fingerprints were taken,
 - (b) in the case of a DNA profile, before the end of the period of 6 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).
- (4) But if, before the material is required to be destroyed by virtue of this paragraph, the person is detained under Schedule 7 or section 41, the material may be further retained until the end of the period of 6 years beginning with the date the person is detained.
- (5) This paragraph ceases to have effect in relation to the material if the person is convicted of—
- (a) a recordable offence in England and Wales or Northern Ireland, or
 - (b) an offence in Scotland which is punishable by imprisonment,
- before the material is required to be destroyed by virtue of this paragraph.
- 14C (1) This paragraph applies to material falling within sub-paragraph (2) relating to a person who—
- (a) has no previous convictions or only one exempt conviction,
 - (b) is detained under Schedule 7, and
 - (c) is aged under 18 on the date he is detained.
- (2) Material falls within this sub-paragraph if it is—
- (a) fingerprints taken from the person under paragraph 10, or
 - (b) a DNA profile derived from a DNA sample taken from the person under paragraph 10 or 12.
- (3) The material must be destroyed—
- (a) in the case of fingerprints, before the end of the period of 3 years beginning with the date on which the fingerprints were taken,
 - (b) in the case of a DNA profile, before the end of 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).

- (4) But if, before the material is required to be destroyed by virtue of this paragraph, the person is detained under Schedule 7 or section 41—
- (a) where the person is aged 18 or over on the date he is detained, the material may be further retained until the end of the period of 6 years beginning with the date he is detained,
 - (b) where—
 - (i) the person is detained under Schedule 7, and
 - (ii) the person is aged under 18 on the date he is detained,the material may be further retained until the end of the period of 3 years beginning with the date he is detained,
 - (c) where—
 - (i) the person is detained under section 41, and
 - (ii) the person is aged under 16 on the date he is detained,the material may be further retained until the end of the period of 3 years beginning with the date the person is detained,
 - (d) where—
 - (i) the person is detained under section 41, and
 - (ii) the person is aged 16 or 17 on the date he is detained,the material may be further retained until the end of the period of 6 years beginning with the date the person is detained.
- (5) This paragraph ceases to have effect in relation to the material if the person is convicted of—
- (a) a recordable offence in England and Wales or Northern Ireland, or
 - (b) an offence in Scotland which is punishable by imprisonment,
- before the material is required to be destroyed by virtue of this paragraph.
- 14D (1) This paragraph applies to material falling within sub-paragraph (2) relating to a person who—
- (a) has no previous convictions or only one exempt conviction,
 - (b) is detained under section 41, and
 - (c) is aged under 16 on the date he is detained.
- (2) Material falls within this sub-paragraph if it is—
- (a) fingerprints taken from the person under paragraph 10, or
 - (b) a DNA profile derived from a DNA sample taken from the person under paragraph 10 or 12.
- (3) The material must be destroyed—
- (a) in the case of fingerprints, before the end of the period of 3 years beginning with the date on which the fingerprints were taken,
 - (b) in the case of a DNA profile, before the end of 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).

Status: This is the original version (as it was originally enacted).

- (4) But if, before the material is required to be destroyed by virtue of this paragraph, the person is detained under Schedule 7 or section 41—
- (a) where the person is aged 18 or over on the date he is detained, the material may be further retained until the end of the period of 6 years beginning with the date the person is detained,
 - (b) where—
 - (i) the person is detained under Schedule 7, and
 - (ii) the person is aged under 18 on the date he is detained,the material may be further retained until the end of the period of 3 years beginning with the date the person is detained,
 - (c) where—
 - (i) the person is detained under section 41, and
 - (ii) the person is aged under 16 on the date he is detained,the material may be further retained until the end of the period of 3 years beginning with the date the person is detained,
 - (d) where—
 - (i) the person is detained under section 41, and
 - (ii) the person is aged 16 or 17 on the date he is detained,the material may be further retained until the end of the period of 6 years beginning with the date the person is detained.
- (5) This paragraph ceases to have effect in relation to the material if the person is convicted of—
- (a) a recordable offence in England and Wales or Northern Ireland, or
 - (b) an offence in Scotland which is punishable by imprisonment,
- before the material is required to be destroyed by virtue of this paragraph.
- 14E (1) This paragraph applies to material falling within sub-paragraph (2) relating to a person who—
- (a) has no previous convictions or only one exempt conviction,
 - (b) is detained under section 41, and
 - (c) is aged 16 or 17 on the date he is detained.
- (2) Material falls within this sub-paragraph if it is—
- (a) fingerprints taken from the person under paragraph 10, or
 - (b) a DNA profile derived from a DNA sample taken from the person under paragraph 10 or 12.
- (3) The material must be destroyed—
- (a) in the case of fingerprints, before the end of the period of 6 years beginning with the date on which the fingerprints were taken,
 - (b) in the case of a DNA profile, before the end of the period of 6 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).
- (4) But if, before the material is required to be destroyed by virtue of this paragraph, the person is detained under Schedule 7 or section 41—

- (a) where the person is aged 18 or over on the date he is detained, the material may be further retained until the end of the period of 6 years beginning with the date the person is detained,
 - (b) where—
 - (i) the person is detained under Schedule 7, and
 - (ii) the person is aged under 18 on the date he is detained,the material may be further retained until the end of the period of 3 years beginning with the date the person is detained,
 - (c) where—
 - (i) the person is detained under section 41, and
 - (ii) the person is aged 16 or 17 on the date he is detained,the material may be further retained until the end of the period of 6 years beginning with the date the person is detained.
- (5) This paragraph ceases to have effect in relation to the material if the person is convicted of—
- (a) a recordable offence in England and Wales or Northern Ireland, or
 - (b) an offence in Scotland which is punishable by imprisonment,
- before the material is required to be destroyed by virtue of this paragraph.
- 14F (1) For the purposes of paragraphs 14B to 14E—
- (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 been previously 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 is aged under 18.
- (2) In sub-paragraph (1), “qualifying offence” has—
- (a) in relation to a conviction in respect of a recordable offence committed in England and Wales, the meaning given by 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, the meaning given by Article 53A of the Police and Criminal Evidence (Northern Ireland) Order 1989.
- (3) For the purposes of paragraphs 14B to 14E, a person is to be treated as having been convicted of an offence if—
- (a) he has been given a caution in England and Wales or Northern Ireland in respect of the offence which, at the time of the caution, he has admitted, or
 - (b) he has been warned or reprimanded under section 65 of the Crime and Disorder Act 1998 for the offence.
- (4) 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

Status: This is the original version (as it was originally enacted).

for the purpose of any provision of those paragraphs relating to an exempt, first or subsequent conviction.

- (5) Subject to the completion of any search by virtue of paragraph 14I(2) that the responsible chief officer of police considers necessary or desirable, material falling within any of paragraphs 14B to 14E must be destroyed immediately if it appears to the chief officer that—
- (a) the arrest under section 41 was unlawful,
 - (b) the taking of the fingerprints or DNA sample concerned was unlawful,
 - (c) the arrest under section 41 was based on mistaken identity, or
 - (d) other circumstances relating to the arrest under section 41 or the detention under Schedule 7 mean that it is appropriate to destroy the material.
- (6) “Responsible chief officer of police” means, in relation to fingerprints or samples taken in England or Wales, or a DNA profile derived from such a sample, the chief officer of police for the police area—
- (a) in which the samples or fingerprints were taken, or
 - (b) in the case of a DNA profile, in which the samples from which the DNA profile was derived were taken.
- (7) “Responsible chief officer of police” means, in relation to fingerprints or samples taken in Northern Ireland, or a DNA profile derived from such a sample, the Chief Constable of the Police Service of Northern Ireland.
- 14G (1) If the responsible chief officer of police determines that it is necessary for fingerprints or a DNA profile to which paragraph 14 applies to be retained for the purposes of national security—
- (a) the material is not required to be destroyed in accordance with paragraphs 14B to 14E, and
 - (b) paragraph 14I(3) does not apply to the material,
- for as long as the determination has effect.
- (2) A determination under sub-paragraph (1) has effect for a maximum of two years beginning with the date on which the material would otherwise be required to be destroyed, but a determination may be renewed.
- (3) “Responsible chief officer of police” means, in relation to fingerprints taken in England or Wales, or a DNA profile derived from a sample taken in England and Wales, the chief officer of police for the police area—
- (a) in which the fingerprints were taken, or
 - (b) in the case of a DNA profile, in which the sample from which the DNA profile was derived was taken.
- (4) “Responsible chief officer of police” means, in relation to fingerprints taken in Northern Ireland, or a DNA profile derived from a sample taken in Northern Ireland, the Chief Constable of the Police Service of Northern Ireland.
- 14H (1) If fingerprints are required to be destroyed by virtue of any of paragraphs 14B to 14E, any copies of the fingerprints must also be destroyed.

- (2) If a DNA profile is required to be destroyed by virtue of any of those paragraphs, no copy may be kept except in a form which does not include information which identifies the person to whom the DNA profile relates.
 - (3) Sub-paragraph (4) applies if a person makes a request to the responsible chief officer of police to be notified when any of the following material is destroyed under any of paragraphs 14A to 14E—
 - (a) fingerprints or a sample taken in England or Wales, or
 - (b) a DNA profile derived from such a sample.
 - (4) The responsible chief officer of police or a person authorised by the chief officer or on the chief officer’s behalf must within 3 months of the request issue the person with a certificate recording the destruction.
 - (5) For the purposes of this paragraph “responsible chief officer of police” means the chief officer of police for the police area—
 - (a) in which the fingerprints were or sample was taken, or
 - (b) in the case of a DNA profile, in which the sample from which the DNA profile was derived was taken.
 - (6) Sub-paragraph (7) applies if a person makes a request to the Chief Constable of the Police Service of Northern Ireland to be notified when any of the following material is destroyed under any of paragraphs 14A to 14E—
 - (a) fingerprints or a sample taken in Northern Ireland, or
 - (b) a DNA profile derived from such a sample.
 - (7) The Chief Constable or a person authorised by the Chief Constable or on the Chief Constable’s behalf must within 3 months of the request issue the person with a certificate recording the destruction.
- 14I (1) Any material to which paragraph 14 applies which is retained after it has fulfilled the purpose for which it was taken or derived must not be used other than—
 - (a) in the interests of national security,
 - (b) for the purposes of a terrorist investigation,
 - (c) for purposes related to the prevention or detection of crime, the investigation of an offence or the conduct of a prosecution, or
 - (d) 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), the material may be checked against—
 - (a) other fingerprints or samples taken under paragraph 10 or 12 or a DNA profile derived from such a sample,
 - (b) material to which paragraph 20(3) applies,
 - (c) material to which section 18 of the Counter-Terrorism Act 2008 applies,
 - (d) any of the fingerprints, samples and information mentioned in section 63A(1)(a) and (b) of the Police and Criminal Evidence Act 1984 (checking of fingerprints and samples), and
 - (e) any of the fingerprints, samples and information mentioned in Article 63A(1)(a) and (b) of the Police and Criminal Evidence

Status: This is the original version (as it was originally enacted).

(Northern Ireland) Order 1989 (checking of fingerprints and samples).

- (3) Material which is required to be destroyed by virtue of any of paragraphs 14A to 14E, or paragraph 14H, 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 reference 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 11(1)(a), for “paragraph 14(4)” there is substituted “paragraph 14I(2)”.
- (4) In paragraph 15(1)—
- (a) for “paragraphs 10 to 14” there is substituted “paragraphs 10 to 14I”;
 - (b) after paragraph (a) there is inserted—
 - “(aa) DNA profile”,
 - (ab) “DNA sample”,.”.
- (5) After paragraph 15(1) there is inserted—
- “(1A) In the application of section 65(2A) of the Police and Criminal Evidence Act 1984 for the purposes of sub-paragraph (1) of this paragraph, the reference to the destruction of a sample under section 64ZA of that Act is a reference to the destruction of a sample under paragraph 14A of this Schedule.”
- (6) In paragraph 15(2), for “paragraphs 10 to 14” there is substituted “paragraphs 10 to 14I”.
- (7) After paragraph 15(2) there is inserted—
- “(2A) In the application of Article 53(3A) of the Police and Criminal Evidence (Northern Ireland) Order 1989 for the purposes of sub-paragraph (2) of this paragraph, the reference to the destruction of a sample under Article 64ZA of that Order is a reference to the destruction of a sample under paragraph 14A of this Schedule.”
- (8) After paragraph 15(3) there is inserted—

- “(4) In paragraphs 14B to 14F, “recordable offence” has—
- (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.”

18 Material subject to the Terrorism Act 2000 (Scotland)

- (1) Schedule 8 to the Terrorism Act 2000 is amended as follows.
- (2) In paragraph 20—
- (a) for sub-paragraph (3) there is substituted—
 - “(3) Material to which this sub-paragraph applies may be retained after it has fulfilled the purpose for which it was taken or derived.
 - (3A) Sub-paragraph (3) applies to the following material—
 - (a) relevant physical data or samples taken by virtue of this paragraph, and
 - (b) a DNA profile derived from a DNA sample so taken.
 - (3B) Sub-paragraph (3)—
 - (a) in the case to which sub-paragraph (1) relates, has effect despite any provision to the contrary in the Act referred to in that sub-paragraph,
 - (b) in any case, is subject to paragraphs 20A to 20E.
 - (3C) In this paragraph and paragraphs 20A to 20I—
 - “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.”;
 - (b) sub-paragraph (4) is repealed.
- (3) After paragraph 20 there is inserted—
- “20A (1) A DNA sample to which paragraph 20(3) 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.
- (2) Any other sample to which paragraph 20(3) applies must be destroyed before the end of the period of 6 months beginning with the date on which it was taken.
- 20B (1) This paragraph applies to material falling within sub-paragraph (2) relating to a person who—
- (a) has no previous convictions or only one exempt conviction,
 - (b) is detained under Schedule 7 or section 41, and
 - (c) is aged 18 or over on the date he is detained.

Status: This is the original version (as it was originally enacted).

- (2) Material falls within this sub-paragraph if it is—
 - (a) relevant physical data to which paragraph 20(3) applies, or
 - (b) a DNA profile to which that paragraph applies.
 - (3) The material must be destroyed—
 - (a) in the case of relevant physical data, before the end of the period of 6 years beginning with the date on which it was taken,
 - (b) in the case of a DNA profile, before the end of the period of 6 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).
 - (4) But if, before the material is required to be destroyed by virtue of this paragraph, the person is detained under Schedule 7 or section 41, the material may be further retained until the end of the period of 6 years beginning with the date the person is detained.
 - (5) This paragraph ceases to have effect in relation to the material if, before the material is required to be destroyed by virtue of this paragraph, the person is convicted of—
 - (a) an offence in Scotland which is punishable by imprisonment, or
 - (b) a recordable offence in England and Wales or Northern Ireland.
- 20C
- (1) This paragraph applies to material falling within sub-paragraph (2) relating to a person who—
 - (a) has no previous convictions or only one exempt conviction,
 - (b) is detained under Schedule 7, and
 - (c) is aged under 18 on the date he is detained.
 - (2) Material falls within this sub-paragraph if it is—
 - (a) relevant physical data to which paragraph 20(3) applies, or
 - (b) a DNA profile to which that paragraph applies.
 - (3) The material must be destroyed—
 - (a) in the case of relevant physical data, before the end of the period of 3 years beginning with the date on which the material was taken,
 - (b) in the case of a DNA profile, before the end of 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).
 - (4) But if, before the material is required to be destroyed by virtue of this paragraph, the person is detained under Schedule 7 or section 41—
 - (a) where the person is aged 18 or over on the date he is detained, the material may be further retained until the end of the period of 6 years beginning with the date he is detained,
 - (b) where—
 - (i) the person is detained under Schedule 7, and
 - (ii) the person is aged under 18 on the date he is detained,

- the material may be further retained until the end of the period of 3 years beginning with the date he is detained,
- (c) where—
- (i) the person is detained under section 41, and
 - (ii) the person is aged under 16 on the date he is detained,
- the material may be further retained until the end of the period of 3 years beginning with the date the person is detained,
- (d) where—
- (i) the person is detained under section 41, and
 - (ii) the person is aged 16 or 17 on the date he is detained,
- the material may be further retained until the end of the period of 6 years beginning with the date the person is detained.
- (5) This paragraph ceases to have effect in relation to the material if, before the material is required to be destroyed by virtue of this paragraph, the person is convicted of—
- (a) an offence in Scotland which is punishable by imprisonment, or
 - (b) a recordable offence in England and Wales or Northern Ireland.
- 20D (1) This paragraph applies to material falling within sub-paragraph (2) relating to a person who—
- (a) has no previous convictions or only one exempt conviction,
 - (b) is detained under section 41, and
 - (c) is aged under 16 on the date he is detained.
- (2) Material falls within this sub-paragraph if it is—
- (a) relevant physical data to which paragraph 20(3) applies, or
 - (b) a DNA profile to which that paragraph applies.
- (3) The material must be destroyed—
- (a) in the case of relevant physical data, before the end of the period of 3 years beginning with the date on which the material was taken,
 - (b) in the case of a DNA profile, before the end of 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).
- (4) But if, before the material is required to be destroyed by virtue of this paragraph, the person is detained under Schedule 7 or section 41—
- (a) where the person is aged 18 or over on the date he is detained, the material may be further retained until the end of the period of 6 years beginning with the date the person is detained,
 - (b) where—
 - (i) the person is detained under Schedule 7, and
 - (ii) the person is aged under 18 on the date he is detained,the material may be further retained until the end of the period of 3 years beginning with the date the person is detained,
 - (c) where—

Status: This is the original version (as it was originally enacted).

- (i) the person is detained under section 41, and
 - (ii) the person is aged under 16 on the date he is detained,

the material may be further retained until the end of the period of 3 years beginning with the date the person is detained,
- (d) where—
 - (i) the person is detained under section 41, and
 - (ii) the person is aged 16 or 17 on the date he is detained,

the material may be further retained until the end of the period of 6 years beginning with the date the person is detained.
- (5) This paragraph ceases to have effect in relation to the material if, before the material is required to be destroyed by virtue of this paragraph, the person is convicted of—
 - (a) an offence in Scotland which is punishable by imprisonment, or
 - (b) a recordable offence in England and Wales or Northern Ireland.
- 20E (1) This paragraph applies to material falling within sub-paragraph (2) relating to a person who—
 - (a) has no previous convictions or only one exempt conviction,
 - (b) is detained under section 41, and
 - (c) is aged 16 or 17 on the date he is detained.
- (2) Material falls within this sub-paragraph if it is—
 - (a) relevant physical data to which paragraph 20(3) applies, or
 - (b) a DNA profile to which that paragraph applies.
- (3) The material must be destroyed—
 - (a) in the case of relevant physical data, before the end of the period of 6 years beginning with the date on which the material was taken,
 - (b) in the case of a DNA profile, before the end of the period of 6 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).
- (4) But if, before the material is required to be destroyed by virtue of this paragraph, the person is detained under Schedule 7 or section 41—
 - (a) where the person is aged 18 or over on the date he is detained, the material may be further retained until the end of the period of 6 years beginning with the date the person is detained,
 - (b) where—
 - (i) the person is detained under Schedule 7, and
 - (ii) the person is aged under 18 on the date he is detained,

the material may be further retained until the end of the period of 3 years beginning with the date the person is detained,
 - (c) where—
 - (i) the person is detained under section 41, and
 - (ii) the person is aged 16 or 17 on the date he is detained,

the material may be further retained until the end of the period of 6 years beginning with the date the person is detained.

- (5) This paragraph ceases to have effect in relation to the material if, before the material is required to be destroyed by virtue of this paragraph, the person is convicted of—
- (a) an offence in Scotland which is punishable by imprisonment, or
 - (b) a recordable offence in England and Wales or Northern Ireland.
- 20F (1) For the purposes of paragraphs 20B to 20E—
- (a) a person has no previous convictions if the person has not previously been convicted—
 - (i) in Scotland of an offence which is punishable by imprisonment, or
 - (ii) in England and Wales or Northern Ireland of a recordable offence; and
 - (b) if a person has been previously so 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 is aged under 18.
- (2) For the purposes of paragraphs 20B to 20E, “qualifying offence” and “recordable offence” have the meanings given by paragraphs 14F(2) and 15(4) respectively.
- (3) For the purposes of paragraphs 20B to 20E, a person is to be treated as having been convicted of an offence in England and Wales or Northern Ireland if he has been given a caution, or has been warned or reprimanded, as mentioned in paragraph 14F(3).
- (4) 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 purpose of any provision of those paragraphs relating to an exempt, first or subsequent conviction.
- (5) Subject to the completion of any search by virtue of paragraph 20I(2) that the chief constable considers necessary or desirable, material to which any of paragraphs 20B to 20E applies must be destroyed immediately if it appears to the chief constable that—
- (a) the arrest under section 41 was unlawful,
 - (b) the taking of the material concerned was unlawful,
 - (c) the arrest under section 41 was based on mistaken identity, or
 - (d) other circumstances relating to the arrest under section 41 or the detention under Schedule 7 mean that it is appropriate to destroy the material.
- (6) The reference in sub-paragraph (5) to the chief constable is a reference to the chief constable of the police force—
- (a) of which the constable who took (or directed the taking of) the material was a member, or
 - (b) in the case of a DNA profile, of which the constable who took (or directed the taking of) the sample from which the profile was derived was a member.

Status: This is the original version (as it was originally enacted).

- 20G (1) If the chief constable determines that it is necessary for relevant physical data or a DNA profile to which paragraph 20(3) applies to be retained for the purposes of national security—
- (a) the material is not required to be destroyed in accordance with paragraphs 20B to 20E, and
 - (b) paragraph 20I(3) does not apply to the material, for as long as the determination has effect.
- (2) A determination under sub-paragraph (1) has effect for a maximum of two years beginning with the date on which the material would otherwise be required to be destroyed, but a determination may be renewed.
- (3) The reference in sub-paragraph (1) to the chief constable is a reference to the chief constable of the police force—
- (a) of which the constable who took (or directed the taking of) the material was a member, or
 - (b) in the case of a DNA profile, of which the constable who took (or directed the taking of) the sample from which the profile was derived was a member.
- 20H (1) If material is required to be destroyed by virtue of any of paragraphs 20B to 20E, any copies of the material must also be destroyed.
- (2) If a DNA profile is required to be destroyed by virtue of any of those paragraphs, no copy may be kept except in a form which does not include information which identifies the person to whom the DNA profile relates.
- (3) Sub-paragraph (4) applies if a person makes a request to the chief constable to be notified when any of the following material is destroyed under any of paragraphs 20A to 20E—
- (a) material taken in Scotland, or
 - (b) a DNA profile derived from such material.
- (4) The chief constable or a person authorised by the chief constable (or on the chief constable's behalf) must within three months of the request issue the person with a certificate recording the destruction.
- (5) The references in sub-paragraphs (3) and (4) to the chief constable are references to the chief constable of the police force—
- (a) of which the constable who took (or directed the taking of) the material was a member, or
 - (b) in the case of a DNA profile, of which the constable who took (or directed the taking of) the sample from which the profile was derived was a member.
- 20I (1) Any material to which paragraph 20(3) applies which is retained after it has fulfilled the purpose for which it was taken or derived must not be used other than—
- (a) in the interests of national security,
 - (b) for the purposes of a terrorist investigation,
 - (c) for purposes related to the prevention or detection of crime, the investigation of an offence or the conduct of a prosecution, or

Status: This is the original version (as it was originally enacted).

- (d) 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), the material may be checked against—
 - (a) other material to which paragraph 20(3) applies,
 - (b) material to which paragraph 14 applies,
 - (c) material to which section 18 of the Counter-Terrorism Act 2008 applies,
 - (d) any of the relevant physical data, samples and information to which section 20 of the Criminal Procedure (Scotland) Act 1995 applies, and
 - (e) any of the fingerprints, samples and information mentioned in—
 - (i) section 63A(1)(a) and (b) of the Police and Criminal Evidence Act 1984, or
 - (ii) Article 63A(1)(a) and (b) of the Police and Criminal Evidence (Northern Ireland) Order 1989.
 - (3) Material which is required to be destroyed by virtue of any of paragraphs 20A to 20E and 20H 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 reference 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.”
- (4) Paragraph 21 (as inserted by section 17(3) of the Counter-Terrorism Act 2008) is repealed.

19 Material subject to the International Criminal Court Act 2001

In the International Criminal Court Act 2001, in Schedule 4 (taking of fingerprints or non-intimate samples), for paragraph 8 there is substituted—

- “8 (1) This paragraph applies to the following material—
- (a) fingerprints and samples taken under this Schedule, and
 - (b) DNA profiles derived from such samples.

Status: This is the original version (as it was originally enacted).

- (2) The material must be destroyed—
 - (a) before the end of the period of 6 months beginning with the date on which the material was transmitted to the ICC (see paragraph 6(2)), or
 - (b) if later, as soon as it has fulfilled the purpose for which it was taken or derived.
- (3) If fingerprints are required to be destroyed by virtue of sub-paragraph (2), any copies of the fingerprints must also be destroyed.
- (4) If a DNA profile is required to be destroyed by virtue of sub-paragraph (2), no copy may be kept except in a form which does not include information from which the person to whom the DNA profile relates can be identified.
- (5) Sub-paragraph (6) applies if a person makes a request to the responsible chief officer of police to be notified when any of the following material is destroyed under this paragraph—
 - (a) fingerprints or a sample taken in England and Wales, or
 - (b) a DNA profile derived from such a sample.
- (6) The responsible chief officer of police or a person authorised by the chief officer or on the chief officer's behalf must within 3 months of the request issue the person with a certificate recording the destruction.
- (7) For the purposes of this paragraph "responsible chief officer of police" means the chief officer of police for the police area—
 - (a) in which the fingerprints were or sample was taken, or
 - (b) in the case of a DNA profile, in which the sample from which the DNA profile was derived was taken.
- (8) Sub-paragraph (9) applies if a person makes a request to the Chief Constable of the Police Service of Northern Ireland to be notified when any of the following material is destroyed under this paragraph—
 - (a) fingerprints or a sample taken in Northern Ireland, or
 - (b) a DNA profile derived from such a sample.
- (9) The Chief Constable or a person authorised by the Chief Constable or on the Chief Constable's behalf must within 3 months of the request issue the person with a certificate recording the destruction.
- (10) In this paragraph—
 - "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."

20 Material subject to the Counter-Terrorism Act 2008 (Scotland)

- (1) The Counter-Terrorism Act 2008 is amended as follows.
- (2) In section 11—
 - (a) in subsection (6), for the words from "may be retained" to the end there is substituted "must be destroyed before the end of the period of 2 years

beginning with the date on which the person ceases to be subject to a control order”;

- (b) after subsection (6) there is inserted—
- “(6A) Subsection (6) applies only if the person to whom the data, sample or information relates has no previous convictions or only one exempt conviction.
- (6B) For the purpose of subsection (6A), a person has no previous convictions or only one exempt conviction if the person would have no previous convictions or only one exempt conviction for the purposes of paragraphs 20B to 20E of Schedule 8 to the Terrorism Act 2000 (see paragraph 20F of that Schedule).
- (6C) Where something is required to be destroyed under subsection (6)—
- (a) in any case (except a DNA profile), any copies of the thing must also be destroyed,
- (b) in the case of a DNA profile, no copy may be kept except in a form that does not include information which identifies the person to whom the profile relates.
- (6D) If a person makes a request to the chief constable to be notified when anything relating to the person is destroyed under subsection (6), the chief constable or a person authorised by the chief constable (or on the chief constable’s behalf) must within 3 months of the request issue the person with a certificate recording the destruction.
- (6E) The references in subsection (6D) to the chief constable are to be construed in accordance with section 11A(6).”;
- (c) in subsection (7), after paragraph (a) there is inserted—
- “(aa) any material to which paragraph 14 or 20(3) of Schedule 8 to the Terrorism Act 2000 applies,”;
- (d) in subsection (8)—
- (i) after the opening words there is inserted—
- ““DNA profile” has the meaning given by section 11A(9)”;
- (ii) the definition of “terrorist investigation” is repealed.
- (3) After section 11 there is inserted—

“11A Retention and use of material: Scotland

- (1) This section applies to the following material if it is required to be destroyed under section 11(6)—
- (a) relevant physical data or samples, and
- (b) a DNA profile derived from a DNA sample falling within paragraph (a).
- (2) Material to which this section applies may be retained—
- (a) if (at any time) the person to whom it relates consents in writing to its retention, and
- (b) for as long as the consent is not withdrawn.

Status: This is the original version (as it was originally enacted).

- (3) Material to which this section applies may be retained without limit of time if, before the material would (but for this section) be required to be destroyed under section 11(6), the person to whom it relates is convicted of—
- (a) an offence in Scotland which is punishable by imprisonment, or
 - (b) a recordable offence in England and Wales or Northern Ireland (as falling to be construed for the purposes of paragraphs 20B to 20E of Schedule 8 to the Terrorism Act 2000 (see paragraph 20F(2) of that Schedule)).
- (4) Material to which this section applies may be retained—
- (a) if the chief constable determines that it is necessary for the material to be retained for the purposes of national security, and
 - (b) for as long as the determination has effect.
- (5) A determination mentioned in subsection (4)—
- (a) has effect for a maximum of 2 years beginning with the date on which the material would (but for this section) be required to be destroyed under section 11(6), and
 - (b) may be renewed.
- (6) The reference in subsection (4) to the chief constable is a reference to the chief constable of the police force—
- (a) of which the constable who took (or directed the taking of) the material was a member, or
 - (b) in the case of a DNA profile, of which the constable who took (or directed the taking of) the sample from which the profile derived was a member.
- (7) Material retained under section 11 or this section must not be used other than—
- (a) in the interests of national security, or
 - (b) for the purposes of a terrorist investigation.
- (8) Section 11(6) is subject to this section.
- (9) In this section—
- “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;
- “terrorist investigation” has the meaning given by section 32 of the Terrorism Act 2000.”

21 Other material

- (1) Section 18 of the Counter-Terrorism Act 2008 (material not subject to existing statutory restrictions) is amended as follows.
- (2) For subsection (2) there is substituted—
 - “(2) Subject to subsections (3A) to (3C), material to which this section applies that is held by a law enforcement authority in England and Wales or Northern

Ireland may be retained by that authority after it has fulfilled the purpose for which it was obtained or acquired by the authority if the following condition is met.”

(2) In subsection (3)(c) for “subsection (2)” there is substituted “subsection (3J)”.

(4) After subsection (3) there is inserted—

“(3A) A DNA sample to which this section 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 obtained or acquired.

(3B) DNA profiles and fingerprints—

- (a) to which this section applies,
- (b) relating to a person who, at the time they were obtained or acquired by the authority retaining them—
 - (i) has no previous convictions or only one exempt conviction, and
 - (ii) is aged under 16, and
- (c) which are held in a form which includes information which identifies the person to whom they relate,

must be destroyed before the end of the period of 3 years beginning with the date on which they were obtained or acquired by the authority.

(3C) DNA profiles and fingerprints—

- (a) to which this section applies,
- (b) relating to a person who, at the time they were obtained or acquired by the authority retaining them—
 - (i) has no previous convictions or only one exempt conviction, and
 - (ii) is aged 16 or over, and
- (c) which are held in a form which includes information which identifies the person to whom they relate,

must be destroyed before the end of the period of 6 years beginning with the date on which they were obtained or acquired by the authority.

(3D) If, before material is required to be destroyed by virtue of subsection (3B) or (3C), the person to whom the material relates is convicted of a recordable offence in England and Wales or Northern Ireland, that subsection ceases to have effect in relation to the material.

(3E) If the responsible officer determines that it is necessary for any material to which subsection (3B) or (3C) applies to be retained for the purposes of national security—

- (a) the material is not required to be destroyed in accordance with that subsection, and
- (b) subsection (4A) does not apply to the material,

for as long as the determination has effect.

Status: This is the original version (as it was originally enacted).

- (3F) A determination under subsection (3E) has effect for a maximum of two years beginning with the date on which the material would otherwise be required to be destroyed, but a determination may be renewed.
- (3G) “Responsible officer” means—
- (a) in relation to material obtained or acquired by a police force in England and Wales, the chief officer of the police force;
 - (b) in relation to material obtained or acquired by the Police Service of Northern Ireland or the Police Service of Northern Ireland Reserve, the Chief Constable of the Police Service of Northern Ireland;
 - (c) in relation to material obtained or acquired by the Ministry of Defence Police, the Chief Constable of the Ministry of Defence Police;
 - (d) in relation to material obtained or acquired by the Royal Navy Police, the Royal Military Police or the Royal Air Force Police, the Provost Marshal for the police force which obtained or acquired the material;
 - (e) in relation to material obtained or acquired by the British Transport Police, the Chief Constable of the British Transport Police;
 - (f) in relation to material obtained or acquired by the Serious Organised Crime Agency, the Director General of the Serious Organised Crime Agency;
 - (g) in relation to material obtained or acquired by the Commissioners for Her Majesty’s Revenue and Customs, any of those Commissioners.
- (3H) If fingerprints are required to be destroyed by virtue of subsection (3B) or (3C), any copies of the fingerprints must also be destroyed.
- (3I) If a DNA profile is required to be destroyed by virtue of subsection (3B) or (3C), no copy may be kept except in a form which does not include information which identifies the person to whom the DNA profile relates.
- (3J) Any material to which this section applies which is retained after it has fulfilled the purpose for which it was obtained or acquired must not be used other than—
- (a) in the interests of national security,
 - (b) for the purposes of a terrorist investigation,
 - (c) for purposes related to the prevention or detection of crime, the investigation of an offence or the conduct of a prosecution, or
 - (d) for purposes related to the identification of a deceased person or of the person to whom the material relates.”
- (5) For subsection (4) there is substituted—
- “(4) Subject to subsection (3J), checks may be made against material to which this section applies and it may be disclosed to any person.
- (4A) Material which is required to be destroyed by virtue of this section 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.
- (4B) In this section—

- (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.”
- (6) In subsection (5), at the end there is inserted—
““terrorist investigation” has the meaning given by section 32 of the Terrorism Act 2000.”
- (7) In subsection (6)—
 - (a) in paragraph (a), after “64” there is inserted “to 64ZN”;
 - (b) in paragraph (b), after “64” there is inserted “to 64ZN”;
 - (c) in paragraph (c), for “paragraph 14” there is substituted “paragraphs 14 to 14I”.
- (8) After section 18 of that Act there is inserted—

“18A Section 18: supplementary provisions

- (1) In section 18 and this section, “recordable offence” has—
 - (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.
- (2) For the purposes of subsections (3B) and (3C) of section 18—
 - (a) a person has no previous convictions if the person has not previously been convicted in England and Wales or Northern Ireland of a recordable offence, and
 - (b) if the person has been previously so convicted of a recordable offence, the conviction is exempt if it is in respect of a recordable offence other than a qualifying offence, committed when the person is aged under 18.
- (3) In subsection (2), “qualifying offence” has—
 - (a) in relation to a conviction in respect of a recordable offence committed in England and Wales, the meaning given by 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, the meaning given by Article 53A of the Police and Criminal Evidence (Northern Ireland) Order 1989.

- (4) For the purposes of subsections (3B) and (3C) of section 18, a person is to be treated as having been convicted of an offence if the person—
- (a) has been given a caution in respect of the offence which, at the time of the caution, he has admitted, or
 - (b) has been warned or reprimanded under section 65 of the Crime and Disorder Act 1998 for the offence.
- (5) For the purposes of those subsections, 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.”

22 Destruction of material taken before commencement

- (1) The Secretary of State must by order make provision for the destruction of—
- (a) fingerprints, samples and impressions of footwear taken prior to the commencement of each of sections 14, 15 and 17 to 21 which would have been destroyed if that section had been in force at the time they were taken, and
 - (b) any DNA profile which would be destroyed if that section had been in force at the time the profile was derived.
- (2) If an order under section 113(1) of the Police and Criminal Evidence Act 1984 (application of that Act to Armed Forces) makes provision equivalent to sections 64 to 64ZN of that Act as substituted by section 14 above, the Secretary of State must by order make provision for the destruction of—
- (a) fingerprints, samples and impressions of footwear taken prior to the commencement of that order which would have been destroyed if that order had been in force at the time they were taken, and
 - (b) any DNA profile which would be destroyed if that order had been in force at the time the profile was derived.
- (3) In this section—
- “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” means a record (in any form and produced by any method) of the skin pattern and other physical characteristics or features of a person’s fingers or either of a person’s palms.
- (4) An order under this section must be made by statutory instrument.
- (5) A statutory instrument containing an order under this section is subject to annulment in pursuance of a resolution of either House of Parliament.

23 National DNA Database Strategy Board

- (1) The Secretary of State must make arrangements for a National DNA Database Strategy Board to oversee the operation of the National DNA Database.
- (2) The National DNA Database Strategy Board must issue guidance about the immediate destruction of DNA samples and DNA profiles which are, or may be, retained under—
- (a) the Police and Criminal Evidence Act 1984, or
 - (b) the Police and Criminal Evidence (Northern Ireland) Order 1989.

- (3) The following must act in accordance with any guidance issued under this section—
 - (a) any chief officer of a police force in England and Wales;
 - (b) the Chief Constable of the Police Service of Northern Ireland.
- (4) The Secretary of State must publish the governance rules of the National DNA Database Strategy Board and lay a copy of the rules before Parliament.
- (5) The National DNA Database Strategy Board must make an annual report to the Secretary of State about the exercise of its functions.
- (6) The Secretary of State must publish the report and must lay a copy of the published report before Parliament.
- (7) The Secretary of State may exclude from publication any part of the report if in the opinion of the Secretary of State the publication of that part would be against the interests of national security.