

PROTECTION OF FREEDOMS ACT 2012

EXPLANATORY NOTES

THE ACT

Commentary on Sections

Part 1: Regulation of biometric data

Chapter 1: Destruction, retention and use of fingerprints etc.

Section 7: Persons under 18 convicted of first minor offence

93. **Section 7**, which inserts new section 63K into PACE, makes provision for the retention of section 63D material taken from persons convicted of a first minor offence, committed when they were under the age of 18. In such cases, the retention period is to be determined by the length and nature of the sentence for that minor offence. Where a custodial sentence of five or more years is imposed, the person's section 63D material may be retained indefinitely (new section 63K(3)). Where a custodial sentence of less than five years is imposed, the person's section 63D material may be retained for the duration of the sentence (both the period spent in custody and the period of the sentence served in the community) plus a further five years (new section 63K(2)). Where a young person is given a non-custodial sentence on conviction for his or her first minor offence, his or her section 63D material may be retained for five years from the date the material was taken (new section 63K(4)). Any subsequent conviction for the recordable offence, whether before or after they turn 18, will enable the section 63D material to be retained indefinitely (new section 63J(5)).