



# Protection of Freedoms Act 2012

## 2012 CHAPTER 9

### PART 1

#### REGULATION OF BIOMETRIC DATA

### CHAPTER 1

#### DESTRUCTION, RETENTION AND USE OF FINGERPRINTS ETC.

#### *Destruction rule for fingerprints and DNA profiles subject to PACE*

### 1 Destruction of fingerprints and DNA profiles

After section 63C of the Police and Criminal Evidence Act 1984 insert—

#### **“63D Destruction of fingerprints and DNA profiles**

- (1) This section applies to—
  - (a) fingerprints—
    - (i) taken from a person under any power conferred by this Part of this Act, or
    - (ii) taken by the police, with the consent of the person from whom they were taken, in connection with the investigation of an offence by the police, and
  - (b) a DNA profile derived from a DNA sample taken as mentioned in paragraph (a)(i) or (ii).
- (2) Fingerprints and DNA profiles to which this section applies (“section 63D material”) must be destroyed if it appears to the responsible chief officer of police that—

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**Changes to legislation:** Protection of Freedoms Act 2012, Section 1 is up to date with all changes known to be in force on or before 29 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

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- (a) the taking of the fingerprint or, in the case of a DNA profile, the taking of the sample from which the DNA profile was derived, was unlawful, or
  - (b) the fingerprint was taken, or, in the case of a DNA profile, was derived from a sample taken, from a person in connection with that person's arrest and the arrest was unlawful or based on mistaken identity.
- (3) In any other case, section 63D material must be destroyed unless it is retained under any power conferred by sections 63E to 63O (including those sections as applied by section 63P).
- (4) Section 63D material which ceases to be retained under a power mentioned in subsection (3) may continue to be retained under any other such power which applies to it.
- (5) Nothing in this section prevents a speculative search, in relation to section 63D material, from being carried out within such time as may reasonably be required for the search if the responsible chief officer of police considers the search to be desirable.”

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**Commencement Information**

- II** S. 1 in force at 31.10.2013 by [S.I. 2013/1814](#), [art. 2\(a\)](#) (with transitional provisions and savings in [S.I. 2013/1813](#))

**Changes to legislation:**

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

- specified provision(s) amendment to earlier commencing SI 2012/2234 art. 13 by [S.I. 2014/831 art. 2\(2\)](#)
- specified provision(s) transitional provisions and savings for commencing S.I. 2013/1814 by [S.I. 2013/1813 art. 2-9](#)

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Sch. 1 para. 7A inserted by [2019 c. 3 Sch. 2 para. 20](#)