



# Counter-Terrorism Act 2008

## 2008 CHAPTER 28

### PART 1

#### POWERS TO GATHER AND SHARE INFORMATION

PROSPECTIVE

#### *Power to remove documents for examination*

#### **1 Power to remove documents for examination**

- (1) This section applies to a search under any of the following provisions—
- (a) section 43(1) of the Terrorism Act 2000 (c. 11) (search of suspected terrorist);
  - (b) section 43(2) of that Act (search of person arrested under section 41 on suspicion of being a terrorist);
  - [<sup>F1</sup>(ba) section 43(4B) of that Act (search of vehicle in relation to suspected terrorist);
  - (bb) section 43A of that Act (search of vehicle suspected of being used for the purposes of terrorism);]
  - [<sup>F2</sup>(bc) section 43C(1) of that Act (search of terrorist offender released on licence);
  - (bd) section 43C(5) of that Act (search of vehicle in connection with search of terrorist offender released on licence);
  - (be) section 43D of that Act (search of premises of offender released on licence for purposes connected with protection from risk of terrorism);]
  - (c) paragraph 1, 3, 11, 15, 28 or 31 of Schedule 5 to that Act (terrorist investigations);
  - (d) section 52(1) or (3)(b) of the Anti-terrorism, Crime and Security Act 2001 (c. 24) (search for evidence of commission of weapons-related offences);
  - [<sup>F3</sup>(e) .....
  - (f) section 28 of the Terrorism Act 2006 (c. 11) (search for terrorist publications).
  - [<sup>F4</sup>(g) paragraphs 6, 7, 8 or 10 of Schedule 5 to the Terrorism Prevention and Investigation Measures Act 2011.]

*Status: Point in time view as at 25/05/2018. This version of this part contains provisions that are not valid for this point in time.*

*Changes to legislation: There are currently no known outstanding effects for the Counter-Terrorism Act 2008, Part 1. (See end of Document for details)*

- (2) A constable who carries out a search to which this section applies may, for the purpose of ascertaining whether a document is one that may be seized, remove the document to another place for examination and retain it there until the examination is completed.
- (3) Where a constable carrying out a search to which this section applies has power to remove a document by virtue of this section, and the document—
  - (a) consists of information that is stored in electronic form, and
  - (b) is accessible from the premises being searched,
 the constable may require the document to be produced in a form in which it can be taken away, and in which it is visible and legible or from which it can readily be produced in a visible and legible form.
- (4) A constable has the same powers of seizure in relation to a document removed under this section as the constable would have if it had not been removed (and if anything discovered on examination after removal had been discovered without it having been removed).

#### Textual Amendments

- F1** S. 1(1)(ba)(bb) inserted (10.7.2012) by [Protection of Freedoms Act 2012 \(c. 9\)](#), s. 120, [Sch. 9 para. 33](#) (with s. 97); [S.I. 2012/1205](#), art. 4(k)
- F2** S. 1(1)(bc)-(be) inserted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), s. 208(5)(w), [Sch. 19 para. 3](#)
- F3** S. 1(1)(e) omitted (15.12.2011) by virtue of [Terrorism Prevention and Investigation Measures Act 2011 \(c. 23\)](#), s. 31(2), [Sch. 7 para. 5\(2\)\(a\)](#) (with Sch. 8)
- F4** S. 1(1)(g) inserted (15.12.2011) by [Terrorism Prevention and Investigation Measures Act 2011 \(c. 23\)](#), s. 31(2), [Sch. 7 para. 5\(2\)\(b\)](#) (with Sch. 8)

## 2 Offence of obstruction

- (1) A person who wilfully obstructs a constable in the exercise of the power conferred by section 1 commits an offence.
- (2) A person guilty of an offence under this section is liable on summary conviction—
  - (a) in England and Wales, to imprisonment for a term not exceeding 51 weeks or a fine not exceeding level 5 on the standard scale, or both;
  - (b) in Scotland, to imprisonment for a term not exceeding twelve months or a fine not exceeding level 5 on the standard scale, or both;
  - (c) in Northern Ireland, to imprisonment for a term not exceeding six months or a fine not exceeding level 5 on the standard scale, or both.
- (3) In subsection (2)(a) as it applies in relation to an offence committed before section 281(5) of the Criminal Justice Act 2003 (c. 44) comes into force, for “51 weeks” substitute “six months”.

## 3 Items subject to legal privilege

- (1) Section 1 does not authorise a constable to remove a document if the constable has reasonable cause to believe—
  - (a) it is an item subject to legal privilege, or
  - (b) it has an item subject to legal privilege comprised in it.

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- (2) Subsection (1)(b) does not prevent the removal of a document if it is not reasonably practicable for the item subject to legal privilege to be separated from the rest of the document without prejudicing any use of the rest of the document that would be lawful if it were subsequently seized.
- (3) If, after a document has been removed under section 1, it is discovered that—
  - (a) it is an item subject to legal privilege, or
  - (b) it has an item subject to legal privilege comprised in it,the document must be returned forthwith.
- (4) Subsection (3)(b) does not require the return of a document if it is not reasonably practicable for the item subject to legal privilege to be separated from the rest of the document without prejudicing any use of the rest of the document that would be lawful if it were subsequently seized.
- (5) Where an item subject to legal privilege is removed under subsection (2) or retained under subsection (4), it must not be examined or put to any other use except to the extent necessary for facilitating the examination of the rest of the document.
- (6) For the purposes of this section “item subject to legal privilege”—
  - (a) in England and Wales, has the same meaning as in the Police and Criminal Evidence Act 1984 (c. 60);
  - (b) in Scotland, has the meaning given by section 412 of the Proceeds of Crime Act 2002 (c. 29);
  - (c) in Northern Ireland, has the same meaning as in the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12)).

#### **4 Record of removal**

- (1) A constable who removes a document under section 1 must make a written record of the removal.
- (2) The record must be made as soon as is reasonably practicable and in any event within the period of 24 hours beginning with the time when the document was removed.
- (3) The record must—
  - (a) describe the document,
  - (b) specify the object of the removal,
  - (c) where the document was found in the course of a search of a person, state the person's name (if known),
  - (d) where the document was found in the course of a search of any premises, state the address of the premises where the document was found,
  - (e) where the document was found in the course of a search of any premises, state the name (if known) of—
    - (i) any person who, when the record is made, appears to the constable to have been the occupier of the premises when the document was found, and
    - (ii) any person who, when the record is made, appears to the constable to have had custody or control of the document when it was found, and
  - (f) state the date and time when the document was removed.

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- (4) If, in a case where the document was found in the course of a search of a person, the constable does not know the person's name, the record must include a description of the person.
- (5) If, in a case where the document was found in the course of a search of any premises, the constable does not know the name of a person mentioned in subsection (3)(e) but is able to provide a description of that person, the record must include such a description.
- (6) The record must identify the constable by reference to the constable's police number.
- (7) The following are entitled, on a request made to the constable, to a copy of the record made under this section—
  - (a) where the document was found in the course of a search of a person, that person; and
  - (b) where the document was found in the course of a search of any premises—
    - (i) the occupier of the premises when it was found, and
    - (ii) any person who had custody or control of the document when it was found.
- (8) The constable must provide the copy within a reasonable time from the making of the request.
- (9) If, in England and Wales or Northern Ireland, the document is found in the course of a search under a warrant, the constable must make an endorsement on the warrant stating that the document has been removed under section 1.
- (10) In the application of this section in relation to the search of a vehicle, the reference to the address of the premises is to the location of the vehicle together with its registration number (if any).

## **5 Retention of documents**

- (1) A document may not be retained by virtue of section 1 for more than 48 hours without further authorisation.
- (2) A constable of at least the rank of chief inspector may authorise the retention of the document for a further period or periods if satisfied that—
  - (a) the examination of the document is being carried out expeditiously, and
  - (b) it is necessary to continue the examination for the purpose of ascertaining whether the document is one that may be seized.
- (3) This does not permit the retention of a document after the end of the period of 96 hours beginning with the time when it was removed for examination.

## **6 Access to documents**

- (1) Where—
  - (a) a document is retained by virtue of section 5, and
  - (b) a request for access to the document is made to the officer in charge of the investigation by a person within subsection (3),the officer must grant that person access to the document, under the supervision of a constable, subject to subsection (4).

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- (2) Where—
- (a) a document is retained by virtue of section 5, and
  - (b) a request for a copy of the document is made to the officer in charge of the investigation by a person within subsection (3),
- that person must be provided with a copy of the document within a reasonable time from the making of the request, subject to subsection (4).
- (3) The persons entitled to make a request under subsection (1) or (2) are—
- (a) where the document was found in the course of a search of a person, that person,
  - (b) where the document was found in the course of a search of any premises—
    - (i) the occupier of the premises when it was found, and
    - (ii) any person who had custody or control of the document when it was found, and
  - (c) a person acting on behalf of a person within paragraph (a) or (b).
- (4) The officer in charge of the investigation may refuse access to the document, or (as the case may be) refuse to provide a copy of it, if the officer has reasonable grounds for believing that to do so—
- (a) would prejudice any investigation for the purposes of which—
    - (i) the original search was carried out, or
    - (ii) the document was removed or is being retained,
  - (b) would prejudice the investigation of any offence,
  - (c) would prejudice any criminal proceedings that may be brought as the result of an investigation within paragraph (a) or (b), or
  - (d) would facilitate the commission of an offence.
- (5) In this section—
- “the officer in charge of the investigation” means the officer in charge of the investigation for the purposes of which the document is being retained; and
- “the original search” means the search in the course of which the document was removed.

## **7 Photographing and copying of documents**

- (1) Where a document is removed under section 1 it must not be photographed or copied, except that—
- (a) a document may be copied for the purpose of providing a copy in response to a request under section 6(2), and
  - (b) a document consisting of information stored in electronic form may be copied for the purpose of producing it in a visible and legible form.
- (2) Where the original document is returned, any copy under subsection (1)(b) must—
- (a) in the case of a copy in electronic form, be destroyed or made inaccessible as soon as is reasonably practicable, and
  - (b) in any other case, be returned at the same time as the original document is returned.
- (3) The following are entitled, on a request made to the relevant chief officer of police, to a certificate that subsection (2) has been complied with—

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- (a) where the document was found in the course of a search of a person, that person;
  - (b) where the document was found in the course of a search of any premises—
    - (i) the occupier of the premises when it was found, and
    - (ii) any person who had custody or control of the document when it was found.
- (4) The certificate must be issued by the relevant chief officer of police, or a person authorised by or on behalf of that chief officer, not later than the end of the period of three months beginning with the day on which the request is made.
- (5) For this purpose the relevant chief officer of police is—
- (a) where the search was carried out in England or Wales, the chief officer of police in whose area the search was carried out;
  - (b) where the search was carried out in Scotland, the chief constable of the [F5Police Service of Scotland];
  - (c) where the search was carried out in Northern Ireland, the Chief Constable of the Police Service of Northern Ireland.

#### Textual Amendments

- F5** Words in s. 7(5)(b) substituted (1.4.2013) by [The Police and Fire Reform \(Scotland\) Act 2012 \(Consequential Provisions and Modifications\) Order 2013 \(S.I. 2013/602\)](#), art. 1(2), **Sch. 2 para. 60(2)**

## 8 Return of documents

- (1) Where a document removed under section 1 is required to be returned, it must be returned—
- (a) where the document was found in the course of a search of a person, to that person;
  - (b) where the document was found in the course of a search of any premises, to the occupier of the premises when it was found.
- (2) Subsection (1) does not apply where a person who is required to return the document is satisfied that another person has a better right to it; and in such a case it must be returned—
- (a) to that other person, or
  - (b) to whoever appears to the person required to return the document to have the best right to it.
- (3) Where different persons claim to be entitled to the return of the document, it may be retained for as long as is reasonably necessary for the determination of the person to whom it must be returned.
- (4) This section also applies in relation to a copy of a document that is required to be returned at the same time as the original; and in such a case references to the document in paragraphs (a) and (b) of subsection (1) are to the original.

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## 9 Power to remove documents: supplementary provisions

- (1) In sections 1 to 8 “document” includes any record and, in particular, includes information stored in electronic form.
- (2) In the application of those sections to a search under 52(1) of the Anti-terrorism, Crime and Security Act 2001 (c. 24), for references to a constable substitute references to an authorised officer within the meaning of that section.
- (3) In the application of those sections in relation to the search of a vehicle references to the occupier of the premises are to the person in charge of the vehicle.

PROSPECTIVE

*Power to take fingerprints and samples from person subject to control order*

### F6 10 Power to take fingerprints and samples: England and Wales

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#### Textual Amendments

- F6 Ss. 10-13 omitted (15.12.2011) by virtue of [Terrorism Prevention and Investigation Measures Act 2011 \(c. 23\)](#), s. 31(2), [Sch. 7 para. 5\(3\)](#) (with Sch. 8)

### F6 11 Power to take fingerprints and samples: Scotland

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#### Textual Amendments

- F6 Ss. 10-13 omitted (15.12.2011) by virtue of [Terrorism Prevention and Investigation Measures Act 2011 \(c. 23\)](#), s. 31(2), [Sch. 7 para. 5\(3\)](#) (with Sch. 8)

### F6 12 Power to take fingerprints and samples: Northern Ireland

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#### Textual Amendments

- F6 Ss. 10-13 omitted (15.12.2011) by virtue of [Terrorism Prevention and Investigation Measures Act 2011 \(c. 23\)](#), s. 31(2), [Sch. 7 para. 5\(3\)](#) (with Sch. 8)

### F6 13 Power to take fingerprints and samples: transitional provision

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**Textual Amendments**

**F6** Ss. 10-13 omitted (15.12.2011) by virtue of [Terrorism Prevention and Investigation Measures Act 2011 \(c. 23\)](#), s. 31(2), [Sch. 7 para. 5\(3\)](#) (with [Sch. 8](#))

VALID FROM 13/08/2020

*Retention and use of fingerprints and samples*

PROSPECTIVE

**14 Material subject to the Police and Criminal Evidence Act 1984**

- (1) The Police and Criminal Evidence Act 1984 (c. 60) is amended as follows.
- (2) In section 63A(1) (fingerprints, impressions of footwear and samples: what they may be checked against), for paragraphs (a) and (b) substitute—
  - “(a) other fingerprints, impressions of footwear or samples—
    - (i) to which the person seeking to check has access and which are held by or on behalf of any one or more relevant law-enforcement authorities or are held in connection with or as a result of an investigation of an offence, or
    - (ii) which are held by or on behalf of the Security Service or the Secret Intelligence Service;
  - (b) information derived from other samples—
    - (i) which is contained in records to which the person seeking to check has access and which are held as mentioned in paragraph (a)(i) above, or
    - (ii) which is held by or on behalf of the Security Service or the Secret Intelligence Service.”.
- (3) In section 63A(1ZA) (fingerprints from a person whose identity is unclear: what they may be checked against), for the words from “other fingerprints” to the end, substitute “other fingerprints—
  - (a) to which the person seeking to check has access and which are held by or on behalf of any one or more relevant law-enforcement authorities or which are held in connection with or as a result of an investigation of an offence, or
  - (b) which are held by or on behalf of the Security Service or the Secret Intelligence Service.”.

<sup>F7</sup>(4) .....

<sup>F7</sup>(5) .....

<sup>F7</sup>(6) .....



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### Textual Amendments

- F7** S. 14(4)-(6) repealed (31.10.2013) by [Protection of Freedoms Act 2012 \(c. 9\)](#), s. 120, [Sch. 10 Pt. 1](#) (with s. 97); [S.I. 2013/2104](#), art. 3(d)

PROSPECTIVE

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

- (1) The Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12)) is amended as follows.
- (2) In Article 63A(1) (fingerprints and samples: what they may be checked against), for paragraphs (a) and (b), substitute—
  - “(a) other fingerprints, impressions of footwear or samples—
    - (i) to which the person seeking to check has access and which are held by or on behalf of any one or more relevant law-enforcement authorities or are held in connection with or as a result of an investigation of an offence, or
    - (ii) which are held by or on behalf of the Security Service or the Secret Intelligence Service;
  - (b) information derived from other samples—
    - (i) which is contained in records to which the person seeking to check has access and which are held as mentioned in paragraph (a)(i) above, or
    - (ii) which is held by or on behalf of the Security Service or the Secret Intelligence Service.”
- (3) In Article 63A(1ZA) (fingerprints from a person whose identity is unclear: what they may be checked against), for “other fingerprints” to the end, substitute “other fingerprints—
  - (a) to which the person seeking to check has access and which are held by or on behalf of any one or more relevant law-enforcement authorities or which are held in connection with or as a result of an investigation of an offence, or
  - (b) which are held by or on behalf of the Security Service or the Secret Intelligence Service.”
- (4) In Article 64(1A) (purposes for which fingerprints or samples may be retained and used), for the words from “except for purposes” to the end substitute “ except as described in paragraph (1AB) ”.
- (5) After paragraph (1AA) of that Article (inserted by section 12) insert—

“(1AB) The fingerprints, impressions of footwear or samples may be used—
  - (a) in the interests of national security,
  - (b) for purposes related to the prevention or detection of crime, the investigation of an offence or the conduct of a prosecution, or

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(c) for purposes related to the identification of a deceased person or of the person from whom the material came.”.

(6) In paragraph (1B) of that Article, after “(1AA)” (inserted by section 12) insert “ or (1AB) ”.

PROSPECTIVE

**<sup>F8</sup>16 Material subject to the Terrorism Act 2000: England and Wales and Northern Ireland**

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**Textual Amendments**

**F8** Ss. 16, 17 repealed (31.10.2013) by [Protection of Freedoms Act 2012 \(c. 9\)](#), s. 120, [Sch. 10 Pt. 1](#) (with s. 97); [S.I. 2013/2104](#), art. 3(d)

PROSPECTIVE

**<sup>F8</sup>17 Material subject to the Terrorism Act 2000: Scotland**

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**Textual Amendments**

**F8** Ss. 16, 17 repealed (31.10.2013) by [Protection of Freedoms Act 2012 \(c. 9\)](#), s. 120, [Sch. 10 Pt. 1](#) (with s. 97); [S.I. 2013/2104](#), art. 3(d)

**[<sup>F9</sup>18 Destruction of national security material not subject to existing statutory restrictions**

- (1) This section applies to fingerprints, DNA samples and DNA profiles that—
  - (a) are held for the purposes of national security by a law enforcement authority under the law of England and Wales or Northern Ireland, and
  - (b) are not held subject to existing statutory restrictions.
- (2) Material to which this section applies (“section 18 material”) must be destroyed if it appears to the responsible officer that the condition in subsection (3) is not met.
- (3) The condition is that the material has been—
  - (a) obtained by the law enforcement authority pursuant to an authorisation under Part 3 of the Police Act 1997 (authorisation of action in respect of property),
  - (b) obtained by the law enforcement authority in the course of surveillance, or use of a covert human intelligence source, authorised under Part 2 of the Regulation of Investigatory Powers Act 2000,

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- (c) supplied to the law enforcement authority by another law enforcement authority, or
  - (d) otherwise lawfully obtained or acquired by the law enforcement authority for any of the purposes mentioned in section 18D(1).
- (4) In any other case, section 18 material must be destroyed unless it is retained by the law enforcement authority under any power conferred by section 18A or 18B, but this is subject to subsection (5).
- (5) 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 it was taken.
- (6) Section 18 material which ceases to be retained under a power mentioned in subsection (4) may continue to be retained under any other such power which applies to it.
- (7) Nothing in this section prevents section 18 material from being checked against other fingerprints, DNA samples or DNA profiles held by a law enforcement authority within such time as may reasonably be required for the check, if the responsible officer considers the check to be desirable.
- (8) For the purposes of subsection (1), the following are “existing statutory restrictions”—
- (a) paragraph 18(2) of Schedule 2 to the Immigration Act 1971;
  - (b) sections 22, 63A and 63D to 63U of the Police and Criminal Evidence Act 1984 and any corresponding provision in an order under section 113 of that Act;
  - (c) Articles 24, 63A and 64 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12));
  - (d) section 2(2) of the Security Service Act 1989;
  - (e) section 2(2) of the Intelligence Services Act 1994;
  - (f) paragraphs 20(3) and 20A to 20J of Schedule 8 to the Terrorism Act 2000;
  - (g) section 56 of the Criminal Justice and Police Act 2001;
  - (h) paragraph 8 of Schedule 4 to the International Criminal Court Act 2001;
  - (i) sections 73, 83, 87, 88 and 89 of the Armed Forces Act 2006 and any provision relating to the retention of material in an order made under section 74, 93 or 323 of that Act;
  - (j) paragraphs 5 to 14 of Schedule 6 to the Terrorism Prevention and Investigation Measures Act 2011.

#### **Textual Amendments**

- F9** Ss. 18-18E substituted for s. 18 (31.10.2013) by [Protection of Freedoms Act 2012 \(c. 9\), s. 120, Sch. 1 para. 4](#) (with s. 97); S.I. 2013/1814, art. 2(k)

#### **18A Retention of material: general**

- (1) Section 18 material which is not a DNA sample and relates to a person who has no previous convictions or only one exempt conviction may be retained by the law

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enforcement authority until the end of the retention period specified in subsection (2), but this is subject to subsection (5).

- (2) The retention period is—
- (a) in the case of fingerprints, the period of 3 years beginning with the date on which the fingerprints were taken, and
  - (b) in the case of a DNA profile, 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).
- (3) Section 18 material which is not a DNA sample and relates to a person who has previously been convicted of a recordable offence (other than a single exempt conviction), or is so convicted before the material is required to be destroyed by virtue of this section, may be retained indefinitely.
- (4) Section 18 material which is not a DNA sample may be retained indefinitely if—
- (a) it is held by the law enforcement authority in a form which does not include information which identifies the person to whom the material relates, and
  - (b) the law enforcement authority does not know, and has never known, the identity of the person to whom the material relates.
- (5) In a case where section 18 material is being retained by a law enforcement authority under subsection (4), if—
- (a) the law enforcement authority comes to know the identity of the person to whom the material relates, and
  - (b) the material relates to a person who has no previous convictions or only one exempt conviction,
- the material may be retained by the law enforcement authority until the end of the retention period specified in subsection (6).
- (6) The retention period is the period of 3 years beginning with the date on which the identity of the person to whom the material relates comes to be known by the law enforcement authority.

#### Textual Amendments

- F9** Ss. 18-18E substituted for s. 18 (31.10.2013) by [Protection of Freedoms Act 2012 \(c. 9\), s. 120, Sch. 1 para. 4](#) (with s. 97); [S.I. 2013/1814, art. 2\(k\)](#)

#### **18B Retention for purposes of national security**

- (1) Section 18 material which is not a DNA sample may be retained for as long as a national security determination made by the responsible officer has effect in relation to it.
- (2) A national security determination is made if the responsible officer determines that it is necessary for any such section 18 material to be retained for the purposes of national security.
- (3) A national security determination—
  - (a) must be made in writing,

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- (b) has effect for a maximum of 2 years beginning with the date on which the determination is made, and
- (c) may be renewed.

#### Textual Amendments

- F9** Ss. 18-18E substituted for s. 18 (31.10.2013) by [Protection of Freedoms Act 2012 \(c. 9\), s. 120, Sch. 1 para. 4](#) (with s. 97); S.I. 2013/1814, art. 2(k)

### 18C Destruction of copies

- (1) If fingerprints are required by section 18 to be destroyed, any copies of the fingerprints held by the law enforcement authority concerned must also be destroyed.
- (2) If a DNA profile is required by that section to be destroyed, no copy may be retained by the law enforcement authority concerned except in a form which does not include information which identifies the person to whom the DNA profile relates.

#### Textual Amendments

- F9** Ss. 18-18E substituted for s. 18 (31.10.2013) by [Protection of Freedoms Act 2012 \(c. 9\), s. 120, Sch. 1 para. 4](#) (with s. 97); S.I. 2013/1814, art. 2(k)

### 18D Use of retained material

- (1) Section 18 material 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 subsection (1), section 18 material may be checked against other fingerprints, DNA samples or DNA profiles held by a law enforcement authority or <sup>[F10]</sup>the Scottish Police Authority ] if the responsible officer considers the check to be desirable.
- (3) Material which is required by section 18 to be destroyed 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 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

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- (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.

#### Textual Amendments

- F9** Ss. 18-18E substituted for s. 18 (31.10.2013) by [Protection of Freedoms Act 2012 \(c. 9\)](#), s. 120, [Sch. 1 para. 4](#) (with s. 97); S.I. 2013/1814, art. 2(k)
- F10** Words in s. 18D(2) substituted (13.5.2014) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), s. 185(1), [Sch. 11 para. 126\(1\)](#) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2014/949, art. 3, Sch. para. 23(m)

PROSPECTIVE

#### 18E Sections 18 to 18E: supplementary provisions

(1) In sections 18 to 18D and 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;

“law enforcement authority” means—

- (a) a police force,
- (b) the [<sup>F11</sup>National Crime Agency],
- (c) the Commissioners for Her Majesty's Revenue and Customs, or
- (d) a person formed or existing under the law of a country or territory outside the United Kingdom so far as exercising functions which—
  - (i) correspond to those of a police force, or
  - (ii) otherwise involve the investigation or prosecution of offences;

“police force” means any of the following—

- (a) the metropolitan police force;
- (b) a police force maintained under section 2 of the Police Act 1996 (police forces in England and Wales outside London);
- (c) the City of London police force;
- (d) [<sup>F12</sup>the Police Service of Scotland;]
- (e) the Police Service of Northern Ireland;
- (f) the Police Service of Northern Ireland Reserve;
- (g) the Ministry of Defence Police;
- (h) the Royal Navy Police;
- (i) the Royal Military Police;
- (j) the Royal Air Force Police;

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- (k) the British Transport Police;  
“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 (S.I. 1989/1341 (N.I. 12));“the 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 [<sup>F13</sup>National Crime Agency], the Director General of the [<sup>F13</sup>National Crime Agency];
    - (g) in relation to material obtained or acquired by the Commissioners for Her Majesty's Revenue and Customs, any of those Commissioners;
    - (h) in relation to any other material, such person as the Secretary of State may by order specify;“section 18 material” has the meaning given by section 18(2);  
“terrorist investigation” has the meaning given by section 32 of the Terrorism Act 2000.
- (2) An order under subsection (1) is subject to negative resolution procedure.
  - (3) For the purposes of section 18A, 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, the person has admitted,
    - (b) has been warned or reprimanded under section 65 of the Crime and Disorder Act 1998 for the offence,
    - (c) has been found not guilty of the offence by reason of insanity, or
    - (d) has been found to be under a disability and to have done the act charged in respect of the offence.
  - (4) Sections 18A and this section, so far as they relate to persons convicted of an offence, have effect despite anything in the Rehabilitation of Offenders Act 1974.
  - (5) But a person is not to be treated as having been convicted of an offence if that conviction is a disregarded conviction or caution by virtue of section 92 of the Protection of Freedoms Act 2012.
  - (6) For the purposes of section 18A—



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- (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 was aged under 18.
- (7) In subsection (6), “qualifying offence” has—
- (a) in relation to a conviction in respect of a recordable offence committed in England and Wales, the meaning 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 (S.I. 1989/1341 (N.I. 12)).
- (8) 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 purposes of calculating under section 18A whether the person has been convicted of only one offence.]

#### Textual Amendments

- F9** Ss. 18-18E substituted for s. 18 (31.10.2013) by [Protection of Freedoms Act 2012 \(c. 9\)](#), s. 120, [Sch. 1 para. 4](#) (with s. 97); S.I. 2013/1814, art. 2(k)
- F11** Words in s. 18E(1) substituted (7.10.2013) by Crime and Courts Act 2013, s. 61(2), Sch. 8 para. 186; S.I. 2013/1682, art. 3(v)
- F12** Words in s. 18E(1) substituted (13.5.2014) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), s. 185(1), [Sch. 11 para. 126\(2\)](#) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2014/949, art. 3, Sch. para. 23(m)
- F13** Words in s. 18E(1)(f) substituted (12.4.2019) by [Counter-Terrorism and Border Security Act 2019 \(c. 3\)](#), s. 27(3), [Sch. 4 para. 41](#)

### *Disclosure of information and the intelligence services*

## 19 Disclosure and the intelligence services

- (1) A person may disclose information to any of the intelligence services for the purposes of the exercise by that service of any of its functions.
- (2) Information obtained by any of the intelligence services in connection with the exercise of any of its functions may be used by that service in connection with the exercise of any of its other functions.
- (3) Information obtained by the Security Service for the purposes of any of its functions may be disclosed by it—
  - (a) for the purpose of the proper discharge of its functions,
  - (b) for the purpose of the prevention or detection of serious crime, or
  - (c) for the purpose of any criminal proceedings.
- (4) Information obtained by the Secret Intelligence Service for the purposes of any of its functions may be disclosed by it—

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- (a) for the purpose of the proper discharge of its functions,
  - (b) in the interests of national security,
  - (c) for the purpose of the prevention or detection of serious crime, or
  - (d) for the purpose of any criminal proceedings.
- (5) Information obtained by GCHQ for the purposes of any of its functions may be disclosed by it—
- (a) for the purpose of the proper discharge of its functions, or
  - (b) for the purpose of any criminal proceedings.
- (6) A disclosure under this section does not breach—
- (a) any obligation of confidence owed by the person making the disclosure, or
  - (b) any other restriction on the disclosure of information (however imposed).
- (7) The provisions of this section are subject to section 20 (savings and other supplementary provisions).

#### Commencement Information

**II** S. 19 in force at 24.12.2008 by [S.I. 2008/3296](#), [art. 2](#)

## 20 Disclosure and the intelligence services: supplementary provisions

- (1) The provisions of section 19 (disclosure and use of information) do not affect the duties with respect to the obtaining or disclosure of information imposed—
- (a) on the Director-General of the Security Service, by section 2(2) of the Security Service Act 1989;
  - (b) on the Chief of the Intelligence Service, by section 2(2) of the Intelligence Services Act 1994;
  - (c) on the Director of GCHQ, by section 4(2) of that Act.
- (2) Nothing in that section authorises a disclosure that—
- (a) contravenes [<sup>F14</sup>the data protection legislation], or
  - (b) is prohibited by Part 1 of the Regulation of Investigatory Powers Act 2000 (c. 23).
- (3) The provisions of that section are without prejudice to any rule of law authorising the obtaining, use or disclosure of information by any of the intelligence services.
- (4) Schedule 1 contains amendments consequential on that section.

[<sup>F15</sup>(5) In this section, “the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act).]

#### Textual Amendments

**F14** Words in s. 20(2)(a) substituted (25.5.2018) by [Data Protection Act 2018 \(c. 12\)](#), s. 212(1), [Sch. 19 para. 154\(2\)](#) (with ss. 117, 209, 210); [S.I. 2018/625](#), reg. 2(1)(g)

**F15** S. 20(5) inserted (25.5.2018) by [Data Protection Act 2018 \(c. 12\)](#), s. 212(1), [Sch. 19 para. 154\(3\)](#) (with ss. 117, 209, 210); [S.I. 2018/625](#), reg. 2(1)(g)

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#### Commencement Information

**I2** S. 20 in force at 24.12.2008 by [S.I. 2008/3296](#), [art. 2](#)

## 21 Disclosure and the intelligence services: interpretation

- (1) In sections 19 and 20 “the intelligence services” means the Security Service, the Secret Intelligence Service and GCHQ.
- (2) References in section 19 to the functions of those services are—
  - (a) in the case of the Security Service, to the functions specified in section 1(2) to (4) of the Security Service Act 1989 (c. 5);
  - (b) in the case of the Secret Intelligence Service, to the functions specified in section 1(1)(a) and (b) of the Intelligence Services Act 1994 (c. 13), exercised in accordance with section 1(2) of that Act;
  - (c) in the case of GCHQ—
    - (i) to the functions specified in section 3(1)(a) of that Act, exercised in accordance with section 3(2) of that Act, and
    - (ii) to the functions specified in section 3(1)(b) of that Act.
- (3) In sections 19, 20 and this section “GCHQ” has the same meaning as in the Intelligence Services Act 1994 (see section 3(3) of that Act).
- (4) Section 81(5) of the Regulation of Investigatory Powers Act 2000 (meaning of “prevention” and “detection”), so far as it relates to serious crime, applies for the purposes of section 19 as it applies for the purposes of the provisions of that Act not contained in Chapter 1 of Part 1.

#### Commencement Information

**I3** S. 21 in force at 24.12.2008 by [S.I. 2008/3296](#), [art. 2](#)

**Status:**

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**Changes to legislation:**

There are currently no known outstanding effects for the Counter-Terrorism Act 2008, Part 1.